



California Regulatory Notice Register

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.

TITLE 2. CALIFORNIA CLIMATE ACTION REGISTRY

NOTICE IS HEREBY GIVEN that the California Climate Action Registry intends to adopt or amend a conflict of interest code pursuant to Government Code Section 87300. Pursuant to Government Code Section 87302, the code will designate employees who must disclose certain investments, income, interests in real property and business positions, and who must disqualify themselves from making or participating in the making of governmental decisions affecting those interests.

A written comment period has been established commencing on June 17, 2002 and terminating on July 31, 2002. Any interested person may present written comments concerning the proposed code no later than July 31, 2002 to the California Climate Action Registry. No public hearing on this matter will be held unless any interested person or his or her representative requests, no later than 15 days prior to the close of the written comment period, a public hearing.

The California Climate Action Registry has prepared a written explanation of the reasons for the designations and the disclosure responsibilities and has available all of the information upon which its proposal is based.

Copies of the proposed code and all of the information upon which it is based may be obtained from the California Climate Action Registry, 515 S. Flower Street, Suite 1305, Los Angeles, CA 90071. Any inquiries concerning the proposed code should be directed to Diane Wittenberg at 213/891-1444 or diane@climateregistry.org.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

CONFLICT OF INTEREST CODES

ADOPTION

MULTI-COUNTY:

Golden State Risk Management Authority
Inland Counties Emergency Medical Agency
School & College Legal Services of California, JPA
Sierra Charter School

AMENDMENT

MULTI-COUNTY:

Employers' Training Resource

A written comment period has been established commencing on **June 14, 2002** and closing on **July 29, 2002**. Written comments should be directed to the Fair Political Practices Commission, Attention Teri Rindahl, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review; unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **July 29, 2002**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

**EFFECT ON HOUSING COSTS
AND BUSINESSES**

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to Teri Rindahl, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

**AVAILABILITY OF PROPOSED CONFLICT
OF INTEREST CODES**

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Teri Rindahl, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

**TITLE 2. STATE
ALLOCATION BOARD**

**THE STATE ALLOCATION BOARD
PROPOSES AMENDMENTS TO REGULATION
SECTIONS 1859.81 AND 1859.91, TITLE 2,
CALIFORNIA CODE OF REGULATIONS
RELATING TO LEROY F. GREENE SCHOOL
FACILITIES ACT OF 1998**

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend the above-referenced regulation sections contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the

close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend these regulations under the authority provided by Sections 17070.35, 17072.25, and 17075.15 of the Education Code. The proposals interpret and make specific reference to Sections 17072.25, 17075.10 of the Education Code, and Section 65995.7 of the Government Code.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

The SAB adopted regulations to implement the Leroy F. Greene School Facility Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999. Amendments to these regulations are being proposed.

Existing Regulation Section 1859.81 explains the two conditions a district must meet to be eligible for financial hardship funding. It explains that an analysis of the district's financial inability to provide matching funds will be made by the OPSC and explains the focus of the review. It also specifies that once a district is notified by the OPSC that the financial hardship requirements have been met, it has a period of six months from the notification date to file an application. This Section also provides: 1) clarification with regard to appropriate interim housing allowances, and 2) fair and equitable standards for establishing "true" financial hardships based on changes in law. The proposed amendments provide clarification relating to the initial and subsequent financial hardship reviews; defines what is considered available funding sources on subsequent financial hardship reviews as well as the conditions for receiving reduced rents under the State Relocatable Classroom Program; and makes minor non-substantive changes.

Existing Section 1859.91 implements the priority point system when State funding is insufficient for new construction grants and when those grant requests that are ready for apportionment exceed the funding available for that purpose. It also delineates the manner in which the SAB implements the priority point system in order to fund new construction projects; establishes a mechanism for determining the methodology the SAB will use for allotment and apportioning new construction funding based on the highest priority point need; and provides clarity with respect to the mechanism for funding school district projects when priority points are in effect. The

proposed amendment repeals subsection (c) as it has been determined, by an opinion from the Attorney General, to be conflicting with the intent of the original language of Senate Bill 50.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the state pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

ECONOMIC IMPACT

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory action and the following determinations have been made relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- There will be no impact on the creation or elimination of jobs within the state, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the state.
- There are no costs or savings to any State agency.
- The SAB has made an initial determination that there will be no impact on housing costs.

EFFECT ON SMALL BUSINESSES

It has been determined that the adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. These regulations only apply to school districts for purposes of funding school facility projects.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax, must be received at the OPSC no later than July 29, 2002 at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Lisa Jones, Regulations Coordinator

Mailing Address: Office of Public School
Construction
1130 K Street, Suite 400
Sacramento, CA 95814

E-mail Address: lisa.jones@dgs.ca.gov

Fax No.: (916) 445-5526

AGENCY CONTACT PERSONS

Questions regarding this Notice of Proposed Regulatory Action may be directed to Lisa Jones at (916) 322-1043. If Ms. Jones is unavailable, questions may be directed to the backup contact person, Dennis Boydston, at (916) 322-0327.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulation should be addressed to the agency's regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

**SUBSTANTIAL CHANGES WILL
REQUIRE A NEW NOTICE**

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~/underline.
2. A copy of this notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.opsc.dgs.ca.gov> under "Regulations," then click on "Proposed Regulations."

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SAB would be more effective in carrying out the purpose of which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**AVAILABILITY OF THE FINAL
STATEMENT OF REASONS**

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the Web site listed above.

**TITLE 10. DEPARTMENT
OF CORPORATIONS**

NOTICE IS HEREBY GIVEN

The California Corporations Commissioner ("Commissioner") proposes to amend Sections 1710, 1717.2, 1726, 1730, 1732.2, 1737, 1737.1 (renumbered as 1737.3), 1738, 1738.2, 1738.3, 1738.5, 1740.1, 1740.4, 1741.1 and 1741.3 and adopt Sections 1709.1,

1717.2, 1730.1, 1737.1, 1737.2 and 1738.6, under Title 10 of the California Code of Regulations, promulgated under the Escrow Law, relating primarily to escrow transactions over the Internet by Internet escrow agents.

PUBLIC HEARING

No public hearing is scheduled. Any interested person or his or her duly authorized representative may request, in writing, a public hearing pursuant to Section 11346.8(a) of the Government Code. The request for hearing must be received by the Department of Corporations' ("Department") contact person designated below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department, addressed to Kathy Womack, Office of Law and Legislation, Department of Corporations, 1515 K Street, Suite 200, Sacramento, CA 95814-4052, no later than 5:00 p.m., July 29, 2002. Written comments may also be sent to Kathy Womack (1) via electronic mail at regulations@corp.ca.gov or (2) via fax (916) 322-5875.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

Over the last couple of years, the California Legislature enacted several bills that amended the Escrow Law (Financial Code Section 17000, et. seq.) to recognize and accommodate the new business of performing escrow transactions over the Internet by companies now labeled as Internet escrow agents. The bills are Assembly Bill 583 (Chapter 441, Statutes of 1999), Assembly Bill 410 (Chapter 253, Statutes of 1999), and Assembly Bill 333 (Chapter 437, Statutes of 2000).

AB 583 amended the Escrow Law to recognize and encompass the performance of escrow agent services over the Internet, including the recognition of, and the addition of a definition for, "Internet escrow agent," the recognition of electronic communications, and the transmission of escrow instructions electronically.

AB 410 amended the Escrow Law to limit the membership requirement for escrow agents with, and indemnity coverage by, Escrow Agents' Fidelity Corporation ("EAFC") to those licensees engaged in the business of receiving escrows in certain listed types of transactions. The bill limits EAFC's coverage to loss of trust obligations with respect to those listed types of transactions and requires escrow agents to obtain separate fidelity bond coverage for all other

types of transactions, such as personal property transactions performed by Internet escrow agents. The bill also requires members of EAFC who engage in both listed and non-listed types of transactions to maintain separate books and records of account and separate trust accounts.

AB 333 amended the Escrow Law to expand the definition of escrow transactions conducted by Internet escrow agents to include those taking place on the Internet for the sale or transfer of personal property or other services. AB 333 permits Internet escrow agents to use Internet-authorized payment alternatives and substitutes electronic transfers (such as wire transfers) for traditional account transfers. The bill also allows Internet escrow agents to maintain all records required under the Escrow Law electronically and to provide those records to the Commissioner in electronic format. Furthermore, the bill allows an Internet escrow agent to establish a customer contact center that is not required to be licensed as a branch office nor staffed by a qualified person provided the location is used solely for the purpose of responding to customer electronic messages and telephone inquiries. Finally, the bill requires that a person possessing knowledge and understanding of the Escrow Law, regulations and accounting shall be on duty at each business location of an Internet escrow agent during business hours.

In general, the Commissioner proposes to make the following changes to the Escrow Law regulations in order to: (1) conform the rules to the changes made in the law as a result of the enactment of AB 583, AB 410 and AB 333; (2) eliminate any inconsistencies between the law and the regulations resulting from the enactment of these bills; and (3) continue to ensure that adequate protection is provided to the public that uses the services of escrow agents, including Internet escrow agents.

Section 1709.1: Financial Code Section 17005.3 (second of two) provides a definition for “customer contact center,” which allows an Internet escrow agent to establish a customer contact center that is not required to be licensed as a branch office pursuant to Financial Code Section 17213.5, if it is used solely for the purpose of responding to customer electronic messages and telephone inquiries. The Commissioner proposes to adopt Section 1709.1 to require Internet escrow agents to notify the Commissioner of the business location of customer contact centers at least 10 days prior to commencing business activity, and to notify the Commissioner at least 10 days prior to the change in address of a customer contact center.

Section 1710: Section 1710 provides that all of the Escrow Law regulations are applicable to joint control agents as described in Financial Code Section 17005.1 and that all references in the regulations to “escrow agent” shall be deemed to refer to joint

control agents. The Commissioner proposes to amend this section to provide that the Escrow Law regulations are also applicable to Internet escrow agents as described in Financial Code Section 17004.5 and that the references in the regulations to “escrow agents” shall also be deemed to refer to Internet escrow agents.

Section 1717.2: Financial Code Section 17200.8(b) requires that within the organization of each Internet escrow agent corporation engaged in the business of escrows involving personal property, one or more qualified persons shall demonstrate knowledge and understanding of the Escrow Law (as set forth in Division 6 (commencing with Section 17000)), the rules promulgated thereunder and accounting practices and procedures. The Commissioner proposes to adopt Section 1717.2 to clarify the experience requirement for Internet escrow agents in order to comply with Financial Code Section 17200.8(b). New Section 1717.2 would set forth the requirements that a person would need to meet in order to be a “qualified person” for purposes of Financial Code Section 17200.8(b), as follows:

- (a) Execute an affidavit certifying under penalty of perjury that the person has read and understood the provisions of the Escrow Law and the regulations promulgated under the Escrow Law; and
- (b) Possess a minimum of two years of experience performing and/or supervising accounting functions that are similar to those functions that will be necessary to maintain the books, records and accounts of the Internet escrow agent as required by the Escrow Law and its rules; or
- (c) Successful completion of beginning and intermediate accounting courses or equivalent accounting courses with a grade of “C” or better from an accredited college. College transcripts shall be provided to the Commissioner to demonstrate this requirement has been met.

Section 1726: Section 1726 requires EAFC to notify the Commissioner that an escrow agent has paid the required membership fees. This section also requires the escrow agent to notify the Commissioner, on the form prescribed, of the names of any officer, director, trustee, employee, or other person directly or indirectly compensated by the escrow agent and to file fingerprint cards for those individuals that are not already on file with the Commissioner. The Commissioner proposes to amend this section to require EAFC to notify the Commissioner that the membership fees have been paid only for those escrow agents that are required to be members of EAFC as provided for in Financial Code Section 17312(a) and (c). The Commissioner also proposes to amend this section to allow

an escrow agent to file with the Commissioner a "Request for Live Scan Service," instead of a fingerprint card, which allows applicants to submit fingerprints electronically using live scan technology.

Section 1730: Section 1730 currently requires that the escrow agent maintain its books, records and accounts in the State of California and requires that the escrow agent notify the Commissioner in writing of the location of the books and records. This section also requires that the escrow agent notify the Commissioner 15 days prior to changing the location of such books. The Commissioner proposes to amend Section 1730 to require that the escrow agents who are engaged in the business of receiving escrows specified in Financial Code Section 17312(c) and are required to be members of EAFC shall have their business offices located in California and maintain their books, records and accounts in the State of California. Those escrow agents that are not engaged in the business of receiving escrows specified in Financial Code Section 17312(c) and are not required to be members of EAFC (e.g., Internet escrow agents) shall be allowed to maintain their books, records and accounts in the State of California or in the state they are located in.

Section 1730.1: Financial Code Section 17405 requires the Commissioner to conduct a routine regulatory examination of every escrow agent at least once every four years and authorizes the Commissioner to conduct other nonroutine inspections and examinations at anytime. Financial Code Section 17405.1 requires that the escrow agent shall pay for the cost of every inspection and examination. Financial Code Section 17209 provides that the application for an escrow agent's license may include other items required by the Commissioner. The Commissioner proposes to adopt Section 1730.1 to provide that a license for a business located outside this state may be issued only to those escrow agents that are not engaged in the business of receiving escrows specified in Financial Code Section 17312(c) and are not required to be members of EAFC if the escrow agent agrees in writing in the license application to pay the reasonable expenses for travel, meals and lodging of the Commissioner or the Commissioner's representatives incurred during any investigation or examination made at the escrow agent's location outside this state.

Section 1732.2: Section 1732.2 currently requires that an escrow agent shall maintain certain books and records. Financial Code Section 17409 requires that those escrow agents engaged in both types of transactions, i.e., those transactions specified in Financial Code Section 17312(c) and those not specified, to maintain separate escrow or trust bank

accounts for both types of business. The Commissioner proposes to amend Section 1732.2 to require an escrow agent engaged in both types of transactions to maintain separate books and separate escrow trust accounts for each type of escrow business in the same manner as provided in subsection (a). In addition, the Commissioner proposes to amend this section to require that escrow agents located outside the State of California, in addition to these requirements, to maintain separate books, records and escrow trust bank accounts for the escrow activity that occurs within the State of California as defined in Financial Code Section 17005.5.

Section 1737: Section 1737(a) provides that all money received by an escrow agent as part of an escrow transaction shall on or before the close of the next full working day deposit such money in the trust bank account. The Commissioner proposes to amend Section 1737(a) to include an exception for Internet escrow agents as provided under (proposed new) Section 1737.1.

Section 1737(b) makes a reference to the written instructions of the principals to the escrow transaction. The Commissioner proposes to amend this subsection to also include a reference to the electronic instructions received by an Internet escrow agent from the principals.

Section 1737(i) provides that no electronic fund transfers shall be made between "trust" or "escrow" account and any interest-bearing account. The Commissioner proposes to amend this subsection to provide that an escrow agent may electronically transfer funds between the "trust" or "escrow" account and any interest-bearing account.

Section 1737(i) further provides that transfers between such accounts shall be made only in a manner consistent with the provisions of Section 1740.4 (which requires such transfers to be accomplished by the writing of a check). The Commissioner proposes to delete this provision of Section 1737(i).

Section 1737.1 (New): The Commissioner proposes to add Section 1737.1 to the regulations to address the use of credit cards and Automated Clearing House ("ACH") deposits by Internet escrow agents and the losses that could result therefrom. The Commissioner proposes to adopt subsection (a) to provide that an Internet escrow agent shall deposit all money received from a credit card or ACH as part of an escrow transaction into a bank, a savings bank, or a savings and loan association in a separate account that is designated a "trust" or "escrow" account. Those funds received from a credit card or ACH shall not be deposited or otherwise commingled with any other escrow money. The Commissioner further proposes to adopt subsection (b) to provide that an Internet escrow agent shall not disburse any monies

from an escrow where the deposits are received by credit card or ACH until the funds for that transaction have been deposited into the escrow trust bank account.

To address losses that could result from the acceptance of credit cards and ACH deposits, the Commissioner proposes to adopt subsection (c) to require that an Internet escrow agent establish a reserve for credit card and ACH losses in the amount of 10% of the average credit card and ACH receipts. The losses the reserve shall cover includes, but is not limited to, charge backs, disputed charges, fraudulent transactions and any other debits. If actual credit card and ACH losses exceed 10% of average monthly credit card and ACH receipts, the Internet escrow agent shall be required to immediately increase the reserve to equal the percentage of actual credit card and ACH losses to the average monthly credit card and ACH receipts. The Commissioner may approve a lower reserve if, in the opinion of the Commissioner, the lower reserves will be sufficient to cover anticipated credit card and ACH losses. The reserve will be in addition to the liquid asset and tangible net worth requirements of Financial Code Section 17210. In addition, the Commissioner proposes to adopt subsection (d) to provide that an Internet escrow agent shall be required to deposit funds from the reserve into the escrow trust bank account to cover any credit card and ACH losses on or before the close of the next full working day unless funds for that credit card or ACH deposit remain in the escrow account.

Section 1737.2: The Commissioner proposes to add Section 1737.2 to the regulations to address the use of Internet-authorized equivalent of money by Internet escrow agents. AB 333 amended Financial Code Section 17003 to allow Internet escrow agents who are engaged in the business of escrows involving personal property or services to accept the Internet-authorized equivalent of money for the purpose of effecting the sale or transfer of such personal property or services.

The Commissioner proposes to adopt subsection (a) to provide that an Internet escrow agent shall not disburse any monies from an escrow where the deposits are received from the Internet-authorized equivalent of money until the funds for that transaction have been deposited into the escrow trust bank account. The Commissioner further proposes to adopt subsection (b) to provide that an Internet escrow agent who wishes to transact business on a basis other than as provided by this section may request in writing a variance or waiver to the provisions in this section, but may not engage in business in a manner not in compliance with this section without first having received a waiver or variance in writing from the Commissioner.

Section 1737.1: The Commissioner proposes to renumber Section 1737.1 to 1737.3 and to amend this section. AB 333 amended Financial Code Section 17403.5 to provide that Internet escrow agents may maintain all records electronically and may provide those records to the Commissioner in electronic format. Existing Section 1737.1 sets forth the records to be preserved by escrow agents and allows the storage of such records by optical image storage media if certain conditions are met. The Commissioner proposes to amend this section to provide that an escrow agent may retain and provide these records in electronic format to the Commissioner provided the following conditions are met:

- (a) The electronic records are maintained and provided in a format that allows the Commissioner complete access to all of the books, accounts and records.
- (b) The electronic records must be provided to the Commissioner in a software format that is acceptable to the Commissioner and that the Commissioner has in his or her possession.
- (c) The escrow agent ensures that the Commissioner has the ability to download and print any or all of the records that are stored and maintained electronically.
- (d) The escrow agent shall provide any or all of the records maintained in electronic format in printed form if the electronic records are not in a format that is acceptable to the Commissioner or upon the request of the Commissioner.
- (e) The electronic records shall be maintained in a media that is (1) non-erasable "write once, read many" ("WORM") that does not allow changes to the stored document, (2) consistent with the minimum standards of quality approved by either the National Institute of Standards and Technology or the Association for Information and Image Management, and (3) contain written authentication identifying the electronic record as an exact unaltered copy of the document.

Finally, the reference to optical image storage media would be deleted and the proposed changes would apply to all escrow agents.

Section 1738: Section 1738 requires that all money deposited into an escrow trust account shall be withdrawn, paid out, or transferred to other accounts only in accordance with the written instructions of the principals to the transaction or pursuant to a court of competent jurisdiction. The Commissioner proposes to amend this section to also provide that all money deposited into an Internet escrow transaction shall be withdrawn, paid out, or transferred to other accounts

only in accordance with instructions that have been electronically transmitted and executed by the principals to the transaction.

The Commissioner also proposes to amend this section to provide additional requirements for escrow trust funds wired out of the escrow trust account. The escrow agent would need to comply with the following procedures for wire transfers:

- (a) The instructions authorizing the wire transfer must contain certain specified information.
- (b) The escrow agent must retain confirmation of the wire transfer from the financial institution that contains certain specified information.
- (c) If necessary, the escrow books should be properly adjusted to reflect the wire transfer.
- (d) The escrow agent must maintain a proper audit trail and adequate controls and safeguards for the wire transferred funds.

Section 1738.2: Section 1738.2 requires that an escrow agent shall use documents or other property deposited into escrow only in accordance with the written instructions of the principals to the transaction or pursuant to sound escrow practice or pursuant to a court of competent jurisdiction. The Commissioner proposes to amend this section to also provide that an escrow agent shall use documents or other property deposited into an Internet escrow transaction only in accordance with instructions that have been electronically transmitted and executed by the principals to the transaction.

Section 1738.3: Section 1738.3 requires that all written escrow instructions shall be dated. The Commissioner proposes to amend this section to require that, in addition to the written escrow instructions, all escrow instructions transmitted over the Internet shall be dated.

Section 1738.5: Section 1738.5 provides certain requirements for printed escrow instructions, including the requirement that in order for the instruction to be valid, it must be initialed by the principals to the transaction. The Commissioner proposes to amend this section by revising the heading from "Printed Instructions" to "Escrow Instructions" and by providing that instructions are also valid if they are electronically executed by the principals.

Section 1738.6: AB 583, AB 410 and AB 333 allowed Internet escrow agents to process certain types of escrows over the Internet, including the transmission and receipt of escrow instructions and other escrow documents electronically. The Commissioner proposes to add Section 1738.6 to provide that Internet escrow agents may accept escrow instructions that are created, generated, sent, communicated, received or stored by electronic means provided that the principals agree to conduct the transaction electronically and

acknowledge that they are able to electronically receive the escrow instructions, download and print the instructions. If a principal is not able to receive the instructions electronically, the escrow agent shall be required to mail a copy of the instructions within 24 hours of execution. This section would further provide that the principals may execute these escrow instructions with an "electronic signature" that complies with the federal Electronic Signatures in Global and National Commerce Act (the E-Sign Act).

Section 1740.1: Section 1740.1 requires an escrow agent that has a conflict of interest, such as also being a principal to the escrow transaction, to provide in writing a notice of interest to all parties to the escrow transaction. The Commissioner proposes to amend this section to provide that Internet escrow agents may provide the notice of interest electronically over the Internet to all parties to the transaction.

Section 1740.4: Section 1740.4 requires transfers between escrows to be accomplished by the actual writing of a check. The Commissioner proposes to add subsection (b) to Section 1740.4 to provide that this section does not apply to Internet escrow agents.

Section 1741.1: Section 1741.1 currently requires an escrow agent to issue consecutively prenumbered receipts for all escrow money deposited with or mailed to the escrow agent and retain copies of such receipts in a separate file. The Commissioner proposes to amend this section to allow an escrow agent to issue consecutively numbered receipts and that the copies shall clearly be identified as a copy.

In addition, the Commissioner proposes to amend this section to provide that an Internet escrow agent may deliver a copy of the receipt to the parties electronically over the Internet and may retain a copy of the receipt electronically in accordance with the provisions of subsection (b) of Section 1737.2. It would further provide that if a person is not able to electronically receive the receipt, the Internet escrow agent shall mail a copy of the receipt within 24 hours of execution.

Section 1741.3: Section 1741.3 requires every escrow agent to provide to each principal to the escrow transaction a statement of his or her account in writing. The Commissioner proposes to amend this section to allow an Internet escrow agent to transmit the statement of account to the principals to the Internet transaction electronically over the Internet and, in case a principal is unable to receive the statement electronically, to require the Internet escrow agent to mail a copy of the statement within 24 hours of its completion.

Finally, the Commissioner proposes to make several technical and nonsubstantive changes to some of the rules.

AUTHORITY

Sections 17203.1 and 17400, Financial Code.

REFERENCE

Sections 17003, 17004.5, 17005.1, 17005.3, 17005.5, 17200.8, 17203.1, 17207, 17209, 17209.1, 17312, 17403.2, 17403.3, 17403.5, 17404, 17405, 17409, 17409.1, 17410, 17411, 17415, 17420, 17421, 17601, and 17603, Financial Code.

AVAILABILITY OF MODIFIED TEXT

The text of any modified regulation, unless the modification is only nonsubstantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulation. A request for a copy of any modified regulation should be addressed to the contact person designated below. The Commissioner will accept written comments on the modified regulations for 15 days after the date on which they are made available. The Commissioner may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth above without further notice.

**AVAILABILITY OF INITIAL
STATEMENT OF REASONS, TEXT OF
PROPOSED REGULATIONS/INTERNET ACCESS**

The express terms of the proposed action may be obtained upon request from any office of the Department. Request Document OP 22/99-B. An initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available from the contact person designated below. Request Document OP 22/99-C. These documents are also available at the Department's website www.corp.ca.gov. As required by the Administrative Procedure Act, the Office of Law and Legislation maintains the rulemaking file. The rulemaking file is available for public inspection at the Department of Corporations, Office of Law and Legislation, 1515 K Street, Suite 200, Sacramento, California 95814-4052.

**AVAILABILITY OF THE FINAL
STATEMENT OF REASONS**

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website listed above.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in

carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISCAL IMPACT

- Cost or Savings to any State Agency: None.
- Cost or Savings to Local Agency or School District, or a Mandate Which Requires Reimbursement Pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None.
- Direct or Indirect Costs or Savings in Federal Funding to the State: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.

DETERMINATIONS

The Commissioner has made an initial determination that the proposed regulatory action:

- Does not have an effect on housing costs.
- Does not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Does not impose a mandate on any local agency or school district or a mandate that is required to be reimbursed pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- Does not significantly affect (1) the creation or elimination of jobs within the State of California; (2) the creation of new businesses or the elimination of existing businesses within the State of California; and (3) the expansion of businesses currently doing business within the State of California.

**COST IMPACTS ON REPRESENTATIVE
PRIVATE PERSON OR BUSINESS**

It is anticipated that this regulatory action may have a cost impact on individuals seeking to oversee a business location of an Internet escrow agent, whether as a manager or otherwise, in order to meet the proposed experience requirements set forth in this regulatory action so as to be deemed a "qualified person" for purposes of Financial Code Section 17200.8(b). However, it is anticipated that this cost impact will be minor to insignificant. Otherwise, the Department is not aware of any cost impacts that other representative persons or businesses would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests for copies of the text of the proposed regulations or questions regarding timelines, may be directed to Kathy Womack at (916) 322-3553. The backup contact person is Karen Fong at (916) 322-3553. Inquiries regarding the substance of the proposed regulation may be directed to Timothy L. Le Bas, Assistant Commissioner & General Counsel, Office of Law and Legislation, Corporations Counsel, Department of Corporations, 1515 K Street, Suite 200, Sacramento, California 95814-4052. (916) 322-3553.

TITLE 11. DEPARTMENT OF JUSTICE

NOTICE IS HEREBY GIVEN that the Department of Justice is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the California Department of Motor Vehicles Building, 2120 Broadway, Sacramento California, 95818, Room A101, on July 30, 2002, from 10:00 a.m. to 2:00 p.m. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Department of Justice at its office no later than 5:00 p.m. on July 29, 2002, or received by the Department of Justice at the hearing. The Department of Justice, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 13825.3 and 13825.5 of the Penal Code and to implement, interpret, or make specific Sections 13825.2 through 13825.5 of said Code, the DOJ is adding Sections 435 through 485 of Division 1 of Title 11, California Code of Regulations, by adding a new Chapter 4.7. This Chapter shall be known and may be cited as the Regulations for the California Gang, Crime, and Violence Prevention Partnership (GCVPP) Program. (*Stats. 1997, c. 885 (A.B. 963), § 3.*) (*Amended by Stats. 1998, c. 842 (S.B. 1700), § 1, eff. Sept. 25, 1998.*)

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Penal Code Sections 13825.1 through 13825.5 require the Department of Justice (DOJ) to provide community-based organizations (CBOs) and non-profit agencies with financial and technical assistance for services and activities related to the prevention of gangs, crime, and violence. Penal Code Sections 13825.1 et. seq. mandate the DOJ to develop and implement the GCVPP Program, a local assistance grant program to support community-based violence prevention efforts in areas that have a high incidence of gang-related violence.

The authorizing statutes specified that the DOJ prepare and file administrative guidelines and procedures for the GCVPP Program consistent with the law, issue a Request for Proposals (RFP) that informs applicants of the purpose and availability of funds to be awarded to eligible CBOs and non-profit agencies, and solicits these organizations and agencies to provide services consistent with the law. This statute also requires the DOJ to ensure that CBOs and non-profit agencies that receive funds shall utilize the funds to provide services and activities designed to prevent or deter at-risk youth from participating in gangs, criminal activity, or violent behavior.

The regulations are as follows:

Article 1, General Provisions, sets forth the title of the proposed regulations (Section 435), sets forth the regulatory purpose and scope (Section 436), and defines the terms used in these regulations (Section 437). The objective of these three regulations is to provide the general frame of reference for the program and the regulations.

Section 435 states the title of the proposed regulations for the GCVPP Program.

Section 436 sets forth the purpose and scope of the proposed regulations.

Section 437 defines terms used in the regulations and for the administration of the GCVPP Program to include applicant, blanket fidelity bond, the California Gang, Crime and Violence Prevention Partnership Program, community-based organization, the Department of Justice, four-year funding cycle, gang, grant period, grantee, Memorandum of Understanding, non-profit agency, Operational Agreement, Outside Evaluator, Program Manager, project, and request for proposal.

Article 2, Applicant Requirements, sets forth the applicant eligibility standards (Section 438), sets forth the elements of the RFP to be released by the DOJ (Section 439), sets forth the at-risk target population (Section 440), sets forth the requirements for the services and activities to be offered by the project (Section 441), and sets forth the project evaluation requirements (Section 442). The objective of these five

regulations is to establish the bottom line requirements for all applicants who request funding for a project that will provide services and activities for at-risk youth.

Section 438 specifies the requirements that CBOs or non-profit agencies must meet in order to be eligible for funding and to submit a proposal for GCVPP Program funds, including meeting the statutory requirements of Penal Code Sections 13825.2, 13825.4, and 13825.5, as well as the regulatory requirements related to the evaluation in Sections 442 and 468 of the proposed regulations.

Section 439 sets forth the requirements related to the release of the GCVPP Program RFP by the DOJ at the end of each four-year funding cycle on a competitive, statewide basis. The Section establishes requirements for submitting a proposal to the DOJ, and the items that must be included in a complete proposal including a grant proposal checklist, evidence of the applicant's status as a CBO or non-profit agency, a grant proposal cover sheet, a project narrative, Memorandum of Understandings (MOUs) or Operational Agreements (OAs), budget sheets, goal and objective summary sheets and a project summary sheet, an original or certified copy of an authorizing resolution from the governing board if available, and a request for advance funds submitted by a CBO or non-profit agency if deemed necessary by the applicant in accordance with Section 471 of the regulations.

Section 440 defines the target population for the GCVPP Program as required by Penal Code Sections 13825.2(a) and 13825.4(c) and specifically requires applicants to provide services to at-risk youth with one or more of the behavioral or attitudinal characteristics set forth in Penal Code Section 13825.4(c)(3–10). The Section also encourages applicants to provide services and activities to at-risk youth, ages eight to 14, not involved in gangs.

Section 441 states that the services and activities that grantees provide must be done in conformance with Penal Code Section 13825.4 (a) and (b). This Section also requires grantees providing mentoring services to follow the standards found in the Governor's Mentoring Partnership, Quality Assurance Standards, Publication Number (ADP) 02-1121. This document is incorporated by reference in its entirety by this Section. The Section also provides information on how to obtain the document in the GCVPP Program RFP, by accessing the DOJ Web site or Alcohol and Drug Programs Web site and provides the website address.

Section 442 establishes the requirement that applicants must have the ability to objectively evaluate the effectiveness of their services and activities as required by Penal Code Section 13825.4(d)(7). The proposed regulation also states the requirement that

applicants obtain the services of an Outside Evaluator as required in Section 469(e) to perform the evaluation activities as required by Section 468.

Article 3, Selection Process, sets forth the applicant proposal review requirements (Section 443), sets forth the rating criteria for the proposals (Section 444), sets forth the rating sheet as Appendix A to these regulations (Section 445), sets forth the purpose and elements of the site visit to finalists (Section 446), sets forth the posting of the Notice of Intent to Fund (Section 447), sets forth the protest process (Section 448), sets forth the posting of the Notice of Award and notification to all applicants (Section 449), and sets forth all required elements of the Grant Award Agreement to funded projects (450). The objective of these eight regulations is to set forth the selection process for all applicants that submit a proposal for funding.

Section 443 establishes that proposals requesting GCVPP Program funds must meet the submission requirements and, if they are met, the proposals will be read, evaluated, and rated according to the procedures set forth in Sections 444 and 445 of the regulations. If they are not met, the proposal will be disqualified and will not be read, evaluated, or rated. The proposed regulation establishes DOJ's intent to not inform applicants that their proposal is incomplete prior to rating or disqualification.

Section 444 presents how the elements in the proposal will be read, evaluated and rated. The Section describes how proposal raters will be selected, and sets forth the process they will use to rate the proposals. The Section outlines the narrative sections of the proposal including the number of questions and total points possible for each of the following sections: applicant qualifications, the problem statement/documentation of need, the at-risk target population, the project description including the services and activities, the project implementation plan, the project evaluation plan, and the budget narrative. The Section also establishes the criteria for the five numerical scores that can be assigned to each narrative section and describes how the scores will be averaged and ranked to establish a proposed funding list for the GCVPP Program. The Section sets forth the process that will be used if proposals are tied, including that re-rating the proposals by another team of independent raters that have not previously rated the tied proposals will break the tie. The Section establishes that the highest rated proposal upon re-rating will be placed in the position on the proposed funding list.

Section 445 states that the rating sheets to be used to score the proposals submitted for the 2002–2006 funding cycle will be attached as an Appendix to this Article.

Section 446 states that, at a minimum, each applicant ranking within the funding level on the proposed funding list must participate in a site visit conducted by DOJ staff, which will include, but not be limited to, a review and verification of the information represented in the applicant's proposal, prior to the posting of the Notice of Intent to Fund. The Section also establishes that the DOJ will eliminate the applicant from the funding list if the information represented in the proposal could not be adequately verified and that the DOJ will visit the next applicant on the funding list for proposed funding.

Section 447 establishes, upon completion of the site visit process, that the DOJ will post a Notice of Intent to Fund at the Office of the Attorney General in Sacramento, and on the provided Attorney General's Web site address for a five working-day period. The Section also sets forth that an alphabetical listing of proposed grantees and proposed funding levels will be included on the Notice of Intent to Fund.

Section 448 authorizes filing of a written protest in Sacramento within a five-working day period from the date of the posting of the Notice of Intent to Fund. The Section further states that the protest must set forth the grounds upon which the applicant based their contentions that the selection process violated Penal Code Sections 13825.1 et. seq. Upon receipt of the protest, the DOJ will review the protest and respond within five working days.

Section 449 describes, if the RFP is not canceled, that the DOJ will announce selected grantees and grant amounts on a Notice of Award within 10 working days after the posting of the Notice of Intent to Fund at the Office of the Attorney General in Sacramento and on the Attorney General's Web site. The Section states that the DOJ will notify applicants that submitted a proposal of their results in writing at the completion of the selection process.

Section 450 requires, within 60 calendar days of the Notice of Award, that proposed grantees must complete any minor budgetary or programmatic revisions negotiated with DOJ staff prior to the Grant Award Agreement being signed and the beginning of project implementation. The Section states that any modifications made during the negotiations will not substantially change the original grant application services and activities selected for funding. The Section establishes that funds will only be made available to grantees pursuant to a Grant Award Agreement. The Section also sets forth the elements of the Grant Award Agreement, to include the Grant Award Face Sheet, the approved proposal, the Certificate of Assurance, DOJ-approved MOUs or OAs, a certified copy of the authorizing resolution from the governing board or council, and a Drug Free Workplace Certification. The Section notes that legislation situations may impact the

finalization of the Grant Award Agreement and establishes the consequences to the grantee for failure to comply with the Grant Award Agreement regulatory requirements in that the DOJ will fund the next applicant on the proposed funding list.

Article 4, Funding, sets forth the grant funding duration (Section 451), sets forth the funding level and authority to disburse available funding (Section 452), and defines and establishes the cash and in-kind match requirements (Section 453). The objective of these three regulations is to establish the guidelines for actual funding.

Section 451 establishes project funding to be based upon an initial 12-month grant period, subject to three annual renewals and any statutory or regulation changes, thereby establishing a four-year funding cycle. The Section establishes the process that grantees must follow when requesting an extension of the grant period. The Section establishes that the request must be made on a Grant Program Extension Request and details the elements on the request. The Section states that a new RFP will be released at the completion of a four-year funding cycle and that new grantees will be selected on a competitive and statewide basis.

Section 452 states that the DOJ will award grants up to a maximum annual grant award of \$237,500 per grant period for each grantee, less DOJ's administrative costs, to successful applicants if the full annual state legislative budget of \$3 million for the grant is made available. The Section specifies DOJ's authority to not disburse or reimburse any costs incurred, until the state budget allocation to the DOJ is passed. The Section states that grantees must comply with Penal Code Sections 13825.1 through 13825.5 and the regulations in order to be disbursed funds. The Section sets forth the process the DOJ will use to distribute funds to grantees if more funds are made available by the elimination of a grantee during a four year funding cycle, that existing grantees will receive a prorated share of the funds equally divided among all grantees upon execution of a modified Grant Award Agreement. This Section all establishes the process by which if the state budget allocates additional funding during a existing four year funding cycle, the DOJ will release a new RFP for more program that will also be on a concurrent four year funding cycle.

Section 453 establishes and defines grantee cash and in-kind match levels that are required in specific years of the funding cycle. The match includes five percent in the second year, 10 percent in the third year, and 15 percent in the forth year. This Section also lists allowable sources of cash or in-kind match and establishes that the value of in-kind contributions is determined by fair market value.

Article 5, Use of Funds, sets forth the elements of allowable personnel expenses (Section 454), sets forth the elements of allowable operating expenses (Section 455), sets forth the definition and guidelines for allowable equipment costs (Section 456), sets forth the requirement to budget for evaluation costs (Section 457), sets forth and defines the indirect cost rate and allowable expenses (Section 458), sets forth the travel and per diem cost and policies (Section 459), sets forth the definition of project income, including the reporting requirement (Section 460), establishes the requirements of a contract, MOU, or OA (Section 461), sets forth the annual audit requirements (Section 462), and sets forth the prohibited use of funding (Section 463). The objective of these ten regulations is to establish the allowable use of funds for all grantees who will provide services and activities for at-risk youth in accordance with the terms of the grant and these regulations.

Section 454 defines allowable personnel expenses as those expenses necessary to provide direct services to the grant. The grant funds may be used for personnel services, including but not limited to, counselors, community workers, clerical, and other project staff. This Section further notes that the personnel costs must be identified on the personnel budget sheet, and that all other persons must be shown as consultants on the operating expense budget sheets and supported by a contract, an MOU, or an OA. The administrative staff may not exceed 10 percent of the total grant amount and cannot be included in indirect costs. The Section sets forth the requirement that administrative personnel providing direct services must maintain accurate records to demonstrate time usages attributable to the grant.

Section 455 defines allowable operating expenses as those necessary expenditures exclusive of personnel salaries and benefits, directly charged to the project, which cannot be included in the indirect cost. Operating expenses must be listed on the operating expenses budget sheet in line-item detail. The Section establishes that out-of-state travel and per diem are allowable operating expenses, subject to prior DOJ approval, and must be requested in writing, documenting the purpose of the travel, location, the benefit to the program goals and objectives, the cost, and how the proposed travel will further the intent of the grant award.

Section 456 defines allowable equipment purchases includes, but is not limited to, computer equipment, furniture and office equipment, telephone systems, and motorized vehicle purchase or lease. This Section also defines a DOJ Equipment Property Sticker as non-expendable, tangible personal property having a useful life of more than one year and having a cost of over \$499 per unit. The Section states that equipment

purchases cannot exceed five percent of the total project budget and that equipment costs must not be included in the indirect costs. The Section states that any equipment purchases under \$499 but allowable and must be in line-item detail on budget sheets under operating expenses.

Section 457 requires that applicants must budget for the costs involved in obtaining the services of an outside Evaluator to conduct the local evaluation activities and to participate in the statewide data collection efforts as specified in Section 468 of the regulations. The Section also establishes a percentage rate of up to 15 percent of the total grant award that applicants may budget for these evaluation activities.

Section 458 defines indirect costs as shared costs not readily itemized or assignable to a particular project, but are necessary to the operation of the organization to perform the grant-related services and activities. The Section establishes a flat, indirect cost rate not exceeding 10 percent of the total salaries, excluding benefits and overtime, or five percent of the total direct project costs, excluding equipment purchases, that grantees may charge for indirect costs. The Section states that indirect costs must be clearly identified on the operating expense budget sheets.

Section 459 requires grantees to include a sufficient amount of per diem and travel allocation in their annual budgets for project-related personnel and/or subcontractors in order to conduct project business and to attend the mandatory DOJ training and meetings. The Section outlines the required travel-related documentation that must be maintained by the grantee, including travel claims, mileage log, and receipt vouchers. The Section requires the grantees to follow the State of California travel and per diem policy unless theirs is more restrictive. The Section establishes the procedures grantees must use to obtain DOJ approval prior to any out-of-state travel by project-related personnel and/or subcontractors.

Section 460 defines project income as profit resulting from activities related to the project and is the amount of income remaining after deducting costs. The Section gives examples of how project income can be generated and that project income must be used for allowable costs that further the services and activities of the project, excluding the payment of salaries and benefits, and establishes that grantees must report project income to the DOJ pursuant to Section 473 of the regulations.

Section 461 establishes that grantees may enter into an MOU or an OA with individuals or other organizations or agencies in order to carry out the projects goals and objectives. The Section sets forth the minimum requirements of the MOU or an OA to include a description of the services, roles, and responsibilities, methods to assure quality of service,

the length of service, the funding levels, and the authorizing signatures of the grantee agency, and each collaborative partner, organization and/or agency providing project services. The Section requires DOJ approval of an MOU or OA prior to services being rendered and that the MOU or OA shall be null and void if not approved by the DOJ, or funding is not made available.

Section 462 sets forth the annual audit requirements for grantees, including that the audit must be conducted by a Certified Public Accountant operating as an independent auditor using generally-accepted accounting standards. The Section requires that the audit must be completed and the report sent to the DOJ no later than six months after the completion of each grant period or termination of a Grant Award Agreement. The Section establishes that grantees may budget up to one percent of the total grant to assist with audit costs and requires that the costs be identified on the operating expense budget sheets.

Section 463 establishes that grant funds must be used to augment existing program funds and prohibits the reduction of other funding sources as a result of these grant funds. The Section sets forth that grantees are prohibited from using grant funds for certain activities, including agency fundraising, property, interest payments, food and beverages, professional licenses, annual professional dues or fees, finance charges, late payment fees, penalties, returned check charges, lobbying, and depreciation charges.

Article 6, Program Administration, sets forth the requirement of compliance with the Penal Code Sections and these regulations (Section 464), sets forth the requirement of attendance at mandatory grant meetings and training sessions (Section 465), sets forth the bonding requirements (Section 466), sets forth the requirement to use credit and disclaimer statements on publications (Section 467), sets forth the requirement of the grantee to annually evaluate their services and activities (Section 468), sets forth the requirement for key personnel in mandatory positions (Section 469), sets forth the conflict of interest policy (Section 470), sets forth the process for requesting and reimbursing advance funds (Section 471), sets forth the invoicing process and the elements of invoicing for grant funds (Section 472), sets forth the requirement of project income and reporting (Section 473), sets forth and defines the process to request an encumbrance (Section 474), sets forth the requirements and elements of a Biannual Fiscal Report (Section 475), defines budget and project modification and sets forth the process for requesting approval (Section 476), sets forth the elements and process for submitting a Progress Report (Section 477), sets forth the requirement and elements of the annual Evaluation Report submitted by the Outside Evaluator (Section 478), sets

forth the elements and definition of project monitoring by the DOJ Staff (Section 479), sets forth the nature of available technical assistance (Section 480), sets forth the elements and requirements of the annual grant renewal process (Section 481), sets forth the requirement of retaining project-related records (Section 482), sets forth the situations and conditions for which the DOJ may suspend, withhold funds, or terminate a grant (Section 483), sets forth the procedures for final grant close-out at the end of the funding cycle (Section 484), and sets forth the programmatic review of project performance and compliance prior to each new grant funding cycle (Section 485). The objective of these 22 regulations is to provide program guidelines for program administration of the funded projects.

Section 464 states that grantees are required to comply with the requirements set forth in Penal Code Sections 13825.1 through 13825.5 and the GCVPP Program regulations. The Section also establishes that the consequences for failing to comply with these requirements include modification or withholding of grant funds, reimbursement to the DOJ of unauthorized expenditures, or termination of the grant.

Section 456 states that grantees must attend all DOJ grant-related meetings and training sessions, which may include GCVPP grant administration and evaluation sessions.

Section 466 establishes annual bonding requirements for grantees. The regulation requires that grantees obtain a notarized copy of a blanket fidelity bond or equivalent insurance contract applicable to all grant-related personnel and/or subcontractors and send it to the DOJ prior to project implementation. The Section requires that the "State of California, Department of Justice" be named as the beneficiary and that the bond must be in effect and provide protection to the DOJ, without interruption, during the entire grant period, including any applicable extensions. The regulation states that the bond must be 50 percent of the total grant award and have a deductible not to exceed \$1,000. The Section requires proof of payment, which must include the bonding company name, the bond number, description and amount of coverage, and the effective date of the bond accompanies the bond.

Section 467 requires the use of credit and disclaimer statements that all publications produced with grant funding must contain and sets forth the required statements to be used. The Section also establishes the DOJ's right to a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use the publications and to authorize others to do so. The Section requires that copies of any publications must be made available to the DOJ at no charge upon request.

Section 468 requires grantees to annually evaluate the effectiveness of their services and activities to determine changes in attitudes and behaviors of the at-risk population as required by Penal Code Section 13825.4(d)(7). The Section states that the evaluation methodology must be approved by the DOJ and requires grantees to obtain the services of an Outside Evaluator to conduct the required local evaluation. The Section also requires the Outside Evaluator to be responsible for participation in the statewide evaluation and data collection process. The Section further states that the statewide evaluation will be conducted annually after the DOJ, the grantee's representative and each grantee's Outside Evaluator jointly meet, discuss, develop, and agree upon the components of the statewide evaluation that must be used by all grantees for the four-year funding cycle, including the assessment tools, measurements, standards, and procedures.

Section 469 requires that grantees must have, at a minimum, different individuals in key positions including an Executive Director, a Project Director, a Fiscal Officer, and an Outside Evaluator for carrying out the requirements of the grant. The Section states that the Executive Director will have the principal administrative authority for the entire grant project, the Project Director will have general administrative authority, the Fiscal Officer, who may be an independent qualified contract fiscal agent, and an Outside Evaluator who will conduct various activities related to the local and state project evaluations. Additionally, the Outside Evaluator must have a baccalaureate degree or two years experience in applied behavioral research. Any changes in key personnel, as identified in this Section, must be reported to the DOJ in writing and documented on a Grant Award Modification form as soon as the change is known and that failure to make these changes will result in the return of grant documentation requiring the person's signature.

Section 470 states that directors, officers, employees, and contractors ("officials") of the grantee are under an obligation to avoid conflicts of interests in the administration of the grant funds and must not participate in a decision to expend grant funds if the expenditure would benefit the following: a business entity in which the official has an investment interest, an individual, business entity, or non-profit organization that is a source of income to any official or any entity that employs the official or in which he or she serves in a management capacity, any real property in which the official has an equity or leasehold interest, any individual or entity in which the official is negotiating for, or has been promised, prospective employment.

Section 471 states that grantees may request an advance of 25 percent of the grant funds in the first grant period. The advance will only be granted after the initial Grant Award Agreement has been approved by the DOJ and no advance funds will be allowed in subsequent grant periods two, three, and four. The Section requires the advance to be cleared within the first three Project Claim Invoices submitted and that subsequent invoices beyond the first three invoices will be reduced by the outstanding advance amount until the entire advance has been cleared. The Section states that the DOJ will bill and collect funds if the grantee does not report sufficient expenditures to cover the advance immediately upon completion of the grant period.

Section 472 requires grantees to invoice only for cost authorized in the Grant Award Agreement and in accordance with the regulations. This Section states that DOJ has the right to make the final determination if an expense is allowable and necessary. The Section also requires that expenses and necessary encumbrances be during the grant period. This section also sets forth and that grantees can choose to invoice either a monthly or quarterly basis to the DOJ for project expenditures. This Section establishes that the invoice must be received by the 10th of the following month. Also, grantees that choose to submit quarterly Project Claim Invoices must remain on a quarterly filing status. The information required on the Project Claim Invoice is detailed in that the invoice must be signed and dated by the project director, or equivalent, and the financial officer. The final Project Claim Invoice must be submitted within 30 calendar days of the end of the grant period. If the grantee does not submit a final Project Claim Invoice within 120 days, the DOJ will consider the last invoice received as the final Project Claim Invoice and close out the grant allowing no further payment. Grantees are prohibited from billing other federal, state, or local agencies for goods and/or services billed and/or reimbursed to the grantee by the DOJ and must retain all substantiating source documentation of financial information.

Section 473 requires grantees to report project income monthly or quarterly in conjunction with the Project Claim Invoice to the DOJ. The Section lists the items that are required on the invoice to include the grant period covered, the agency name, the mailing address, telephone and FAX numbers, the contact person, the project title, type of project income, amount of the project income, and where the proposed income category funds will be allocated in the project budget. The Section also requires that the invoice be signed and dated by the project director, or equivalent, and the fiscal officer.

Section 474 defines an encumbrance as an accounting transaction, which occurs when funds are set aside to pay for a particular obligation in the future making the funds no longer available for other expenditures. The Section requires the grantee to provide a formal written request, obtain approval from the DOJ, and submit a purchase order/contract from the vendor or supplier of goods or services to the DOJ.

Section 475 requires grantees to submit Biannual Fiscal Reports with line-item detail of expenditures to the DOJ throughout the four-year funding cycle. This regulation states that the reports will include the approved state funds, total expenditures in each line item, line item detail of cash or in-kind match, signatures of the Executive Director or equivalent, and the fiscal officer. The regulation establishes that the due dates for the report will be 30 calendar days after the completion of six months of the grant period and at the end of the grant period.

Section 476 states that a budget modification is a change within the approved budget that does not change the amount of the Grant Award Agreement or the grant period. This Section states that grantees must obtain prior approval in writing from the DOJ for modification of the budget that increases or decreases the approved budget category amounts by more than 10 percent or adds a new line-item to the current, approved budget category. This Section also states that a project modification is a change in the project services, activities, or objectives that do not change the Grant Award Agreement, the budget, or the grant period and that requests to modify a project must be approved by the DOJ, citing justification showing that the need to modify arose from circumstances beyond the grantee's control. The Section requires that budget and project modifications must be submitted in writing on the DOJ Grant Award Modification form, which requires the following: date, grant award number, grant period, amendment number, check boxes for program or budget modification, agency name, agency mailing address, agency contact person and title, agency phone and FAX numbers, budget categories for personnel, operating costs, equipment costs, and total for approved budget, proposed change, and proposed revised allocation columns. The form also requires an original signature of the applicant's authorized officer or agent and the fiscal officer and contains a section for DOJ review and approval.

Section 477 states that a Progress Report must be submitted to the DOJ within 30 calendar days following the end of the first six months of the grant period. The Progress Report is to include the project title, the grant award number, the grantee's name and address, the grantee's telephone number, the grant period, the name and title of the person preparing the report, the report period, the budget status, the names

of personnel funded by grant, personnel actions taken, if any, a project update, equipment purchased, and a narrative detailing specific information on the progress made toward achieving the project goals and objectives. This Section also requires that prior approval must be obtained from the DOJ Program Manager for an extension to submit a late report.

Section 478 requires that the Outside Evaluator submit an annual report to the DOJ to include, at a minimum, the required elements of the Progress Report as specified in Section 467 of these regulations, the annual local evaluation in accordance with Section 458(a) of these regulations, survey and questionnaire results relating to the project, identification of the project's outstanding achievements and accomplishments, identification of obstacles and/or lessons learned from the project operations, and identification of improvement needed in the project. The Section requires that the annual report must be submitted to the DOJ within 60 calendar days following the end of the grant period.

Section 479 establishes, at a minimum, that the DOJ will conduct annual fiscal and programmatic monitoring reviews through formal or informal means. Formal monitoring may include site visits, during which DOJ staff may review, but is not limited to, all fiscal and personnel documents, programmatic materials, publications, or curricula used by and developed under this funding. Informal monitoring may include, but is not limited to, telephone calls, desk monitoring of progress and evaluation reports, biannual fiscal reports, correspondence, invoices, and E-mails.

Section 480 states that grantees may request technical assistance from the GCVPP Program Manager for assistance with specific programmatic, fiscal, and other issues related to the implementation, management, and administration of the project and to support the grantee's success in achieving the goals and objectives of the funded project.

Section 481 requires that all funded grantees in the first year must submit a continuation application each year for the grant periods. Continuation in the four-year funding cycle will be based upon prior year performance, compliance with grant requirements, and the availability of funds. The Section also sets forth that the continuation application will require a new Grant Award Agreement in accordance with Section 450 of the regulations, a budget for the next grant period including the grant match amounts and sources, new goals and objectives summary sheets, a new project summary sheet, evidence of CBO or non-profit agency status, and a notarized copy of the blanket fidelity bond. The Section further requires, within 60 calendar days from the end of the prior grant period, that grantees must have the Grant Award Agreement

signed by the authorizing officer or agent and the DOJ to begin implementation of the new grant period and to request reimbursement of funds.

Section 482 establishes the requirement that grantees and subcontractors must maintain accounting records and other evidence pertaining to procedures and project performance sufficient to properly reflect costs incurred for the implementation, maintenance, and evaluation of the project, including all costs and match funds. These records must be kept available by the grantee and subcontractors during each grant period and thereafter for five full years from the date of the final payment. The DOJ must be permitted to audit, review, and inspect all activities, books, documents, papers and records, publications and videotapes, and equipment of the grantee and subcontractors.

Section 483 states the DOJ may withhold funds and/or disallow expenditures anytime the grantee fails to comply with any term or condition of the Grant Award Agreement or requirements of the GCVPP Program and the section lists specific examples of such failure to comply. The Section states that the DOJ reserves the right to terminate a grant and recover grant funds and/or equipment purchased for failure to comply with any term or condition of the Grant Award Agreement or the requirements of the GCVPP Program. Funds may also be withheld if the funding made available by the Budget Act is insufficient and DOJ will have no responsibility to pay the funds until the state budget allocation is available. If grantee funding has been reduced, delayed, or eliminated, grantees have no responsibility to continue or incur grant spending. The DOJ will provide the grantee reasonable notice and opportunity for a full and fair process by letter that of the intent to terminate payments, recover grant funds and/or equipment, unless the grantee show good cause why the project should not be terminated or the funds and/or equipment recovered. The grounds and the effective date of the proposed termination or recovery of funds and/or equipment will be stipulated in the letter. The grantee will be given 10 calendar days to submit written materials in opposition to the proposed action. The grantee may terminate the Grant Award Agreement with the DOJ with reasonable notice and opportunity for a full and fair process, subject to the following conditions: the grantee must notify the DOJ in writing that it intends to terminate the Grant Award Agreement, including the grounds and the effective date, the grantee must comply with the documentation requirements of Section 484 of these regulations, and the DOJ has the right to take up to 10 calendar days to respond to the notice and negotiate final grant conditions.

Section 484 requires, upon completion of the four-year funding cycle and within 60 calendar days, that grantees must submit to the DOJ the following final documentation: a Biannual Fiscal Report, annual local evaluation report, statewide data collection and evaluation information, a Use of Equipment Certification, and the annual audit report pursuant to Section 452 of these regulations. The Use of Equipment Certification includes: the grantee name, the grant award number, the project title, the grantee address, the contact person and telephone number, the dates of the grant period, a certification that the equipment will be used to further intervention and prevention-related activities or to further the intent of the original grant award, a description of the equipment, and the equipment property sticker number, with original signatures of the authorized officer or agent, the fiscal officer, and the DOJ. The failure to provide the required documentation will result in non-payment of the final invoice until such time as the DOJ receives the documentation.

Section 485 establishes the DOJ's intent to review all previously funded grantees for past performance and compliance at each new four-year funding cycle. Failure to comply with any term or condition of the Grant Award Agreement may result in denial of future grant awards to the grantee and/or its officers. The Section also states that the DOJ may not recommend a project for continued funding in the new four-year funding cycle based upon review of documentation or information, including but not limited to, the grantee's failure to submit required Project Claim Invoices or progress reports in a timely manner, the grantee's failure to resolve interim or final audit exceptions, maintain adequate accounting records, submit proof of bond or coverage, cooperate with or admit DOJ staff or representatives, reimburse unallowable costs, and comply with the conflicts of interests policy.

FISCAL IMPACT ESTIMATES

1. Fiscal Impact on Public Agencies Including Cost/Savings to State Agencies or Cost/Saving in Federal Funding to the State. None
2. Non-discretionary Cost/Savings to Local Agencies: None
3. Local Mandate Determination: None
4. Cost to Any Local Agency or School District Which must Be Reimbursed in Accordance with Government Code Section 17561: None
5. Cost or Saving in Federal Funding to the State: None
6. Business Impact:

The DOJ has made an initial determination that the proposed regulatory action has no significant statewide adverse economic impact directly affect-

ing businesses, including the ability of California businesses to compete with businesses in other states.

7. The Impact on Jobs/New Businesses:

The DOJ has determined that this proposed regulatory proposal does not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

8. Cost Impact on a Representative Private Person or Business:

The DOJ is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

9. Effect on Housing Costs: None

10. Effect on Small Businesses:

The DOJ has determined that the proposed regulations would affect small businesses to the extent that a CBO or non-profit organization can be considered a small business.

11. Consideration of Alternatives:

The DOJ must determine that no reasonable alternative which has been considered or has otherwise been identified and has been brought to our attention can either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulations.

**INITIAL STATEMENT OF REASONS
AND INFORMATION**

The DOJ has prepared a statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the statement of reasons, and all of the information upon which the proposal is based may be obtained at the hearing or prior to the hearing upon request from the Office of the Attorney General's, Department of Justice, Crime and Violence Prevention Center, 1300 I Street, Suite 1150, Sacramento, California, 94814.

**AVAILABILITY AND LOCATION OF THE
FINAL STATEMENT OF REASONS
AND RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared by making a written request to the contact person named below.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be addressed to:

Name: Regina Banks
Address: Office of the Attorney General
Crime and Violence Prevention
Center
1300 I Street, Suite 1150
Sacramento, California, 94814
Telephone Number: (916) 322-2692
FAX No: (916) 327-7863
E-mail address: Regina.Banks@doj.ca.gov

The backup contact person is:

Name: Deborah Cramer
Address: Office of the Attorney General
Crime and Violence Prevention
Center
1300 I Street, Suite 1150
Sacramento, California, 94814
Telephone Number: (916) 322-2799
FAX No: (916) 327-7863
E-mail address: Deborah.Cramer@doj.ca.gov

Inquirers concerning the substance of the proposed regulatory action may be directed to Regina Banks at Regina.Banks@doj.ca.gov or (916) 322-2692.

Web site Access: materials regarding this proposal can be found at <http://www.caag.state.us/cvpc>.

**TITLE 14. DEPARTMENT
OF CONSERVATION**

**SB 528 SITE HISTORICAL REVIEW
PROPOSED REGULATIONS**

NOTICE IS HEREBY GIVEN that the Department of Conservation (Department), Division of Recycling (Division) proposes to adopt amendments to the California Code of Regulations (CCR). Commencing with Subchapter 2, Chapter 5, Division 2, Title 14 of the CCR, the Division will propose permanent regulations, after the consideration of all comments, objections or recommendations. The proposed amendments are as follows:

Subchapter 2.

Article 1. Certification Application Procedures

§ 2030 REVIEW OF APPLICATIONS.

New Subsection 2030(f) was added to reflect the changes made in statute by SB 528, to Sections 14538 and 14539. Prior to the enactment of this bill, there

was no express condition of certification regarding a satisfactory five-year compliance history at the location for which certification of a recycling center or processor is being sought. This new subsection will add the compliance history condition to the list of criteria considered by the Department in processing applications for certification, as specified in the statute.

Renumbered Subsection 2030(g) is renumbered due to the addition of new subsection 2030(f), which changed the numbering of subsequent sections for consistency. Therefore, this subsection, which was numbered 2030(f) in previously adopted regulations, is now renumbered 2030(g) in this regulatory package.

New Subsection 2030(g)(7) has been added to reflect the changes made in statute by SB 528, to Sections 14538 and 14539. This bill makes a satisfactory five-year compliance history at the location for which certification is sought an express condition of certification for recycling centers and processors. This new subsection will add the failure of the five-year certification history at the location to exhibit a satisfactory pattern of compliance as a reason for denial of applications for certification of recycling centers and processors, as required under statute.

Renumbered Subsection 2030(h) was renumbered due to the addition of new Subsection 2030(f), which changed the numbering of subsequent sections for consistency. Therefore this Subsection, which was numbered 2030(g) in previously adopted regulations, is now renumbered 2030(h). In addition, this Subsection references 2030(f), which has been renumbered as 2030(g) in these regulations. This non-substantive amendment is necessary to correctly reference this newly renumbered subsection.

INFORMATION IS AVAILABLE UPON REQUEST

Copies of the express terms of the proposed action, the initial statement of reasons and all of the information upon which this proposal is based are available upon request. The rulemaking file is available to the public for review during normal business hours at the Division of Recycling, 801 "K" Street, 18th Floor, Sacramento, California. Please contact the agency contact person, Cheryl Brown, at (916) 323-0728. General or substance questions regarding this file may also be directed to Cheryl Brown. The backup agency contact person for this rulemaking file is Marty Nold, who may be contacted at (916) 327-2761.

SUBMITTING WRITTEN COMMENTS

The written comment period permits any interested person, or their authorized representative, to submit written comments addressing the proposed amendment to the Department. Written comments, which offer a recommendation and/or objection, or support

the proposed amendment, should indicate the amended section to which the comment or comments are directed. Written comments should be sent to the Department and received before the close of the public comment period, no later than 5:00 p.m. on July 29, 2002. Additionally, written comments that do not reference a subsection or section of the proposed action, or are received by the Department after the close of the public comment period, will not be responded to in the rulemaking file. Submit your written comments to: Cheryl Brown, SB 528 Site Historical Review Proposed Permanent Regulations, Department of Conservation, Division of Recycling, 801 "K" St., MS 18-58, Sacramento, CA 95814. During the 45-day comment period, written comments may also be E-mailed to: DORRegulations@consrv.ca.gov, or faxed to (916) 327-2144.

PUBLIC HEARING SCHEDULED

The hearing will begin promptly at 10:00 a.m. and will adjourn immediately after hearing the last public comment by those individuals present. The conference room is wheelchair accessible. The public hearing to record public comments on the proposed amended regulations is scheduled for:

July 29, 2002 at 10:00 a.m.
The Renaissance Tower
18th Floor Conference Room
801 "K" Street
Sacramento, CA 95814

SUBSTANTIAL REVISIONS WILL REQUIRE A RENOTICE

Following the public hearing, the Department will adopt the regulations without further notice. However, if the Department chooses to substantially alter or revise the proposed regulatory action, a revised notice, called a renotice, and the amended version of the proposed text of the regulations will be made available to the public for another public comment period for fifteen (15) days. All persons who testified at the public hearing, submitted written comments at the public hearing, whose comments were received by the agency during the public comment period, or who requested notification from the agency of the availability of changes to the text of the proposed regulation, will be sent any renotices.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Act authorizes the Department to certify recycling centers (PRC§ 14538) and processors (PRC§ 14539), and provides that the Department shall adopt regulations containing standards and requirements for certification. The Department of Conservation (Department) has an on-going problem regarding

the certification of recycling centers at sites where prior certifications have been revoked due to significant violations of the Beverage Container Recycling and Litter Reduction Act (Act) or regulations. The person or organization previously decertified for violations would apply for a new certification through the use of a "straw" operator (i.e., a relative, friend or employee) who does not have a history of violations. In these cases, the actual operator of the site would be the prior decertified person who would continue the same fraudulent activities, until caught again and decertified.

SB 528 (Chapter 874, Statutes of 2001) was passed as an urgency measure addressing this issue and became effective on October 14, 2001. This bill adds a new express condition for certification to the existing criteria. SB 528 requires that if one or more certified entities have operated within the past five years at a location to be certified, the operations at the location must exhibit, to the Department's satisfaction, a pattern of operation in compliance with the Act and related regulations.

Emergency regulations were filed with the Office of Administrative Law (OAL) and became effective on March 4, 2002, and will expire on July 3, 2002. That emergency package implemented the changes to Section 2030, as established by SB 528, by clarifying the certification requirements for recycling centers and processors. The regulations proposed in this package will permanently adopt the regulations contained in the emergency package that are now in effect. This will expressly authorize the Division to continue to review the necessary operational records, and to deny certification for failure to demonstrate compliance, as specified in statute.

AUTHORITY

These regulations are submitted pursuant to the Department's authority under Public Resources Code Sections, 14530.5(b) and 14536(b).

REFERENCE

Revisions to California Code of Regulations Title 14, Division 2, Chapter 5, Section 2030 are intended to make more specific Public Resources Code Section 14538 and 14539.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: The Department has determined that adoption of these proposed regulations will not impose any new mandates on local agencies or local school districts.

Cost or savings to any State agency: No savings or additional expenses to state agencies are identified because the implementation of statute is financed by the beverage container recycling program itself.

Costs to any local agency or school district which must be reimbursed in accordance with Government Code §§ 17500 through 17630: The Department has determined that the adoption of these proposed regulations will not impose any additional cost obligations on local agencies or on local school districts.

Other non-discretionary cost or savings imposed upon local agencies: No other non-discretionary costs or savings to local agencies have been identified.

Cost or savings in Federal funding to the State: No costs or savings in Federal funding to the state have been identified.

Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: The Department has determined that no significant impact to California businesses will result from the adoption of this proposed regulatory language. These proposed regulations serve to clarify and make specific existing statutory requirements.

Potential cost impact on private persons or directly affected businesses: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This proposed regulation does not mandate actions upon private persons or businesses, but rather clarifies existing statutory mandates.

Creation or elimination of jobs in California: The Department has determined that the adoption of these regulations will not:

- Create or eliminate jobs within California;
- Create new nor eliminate existing businesses within California;
- Expand businesses currently doing business in California.

Significant effect on housing costs: The Department has determined that the adoption of these regulations will have no significant effect on housing costs.

Effects on small businesses: The Department has determined that the adoption of these proposed regulations will not affect small businesses. These proposed regulations serve to clarify and make specific existing requirements contained in statute. These proposed regulations do not mandate actions upon private persons or businesses, but rather clarifies existing statutory mandates.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative that it considers or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private

persons than the proposed action. The Department has not identified any adverse impacts resulting from these proposed regulations.

FINAL STATEMENT OF REASONS

A copy of the final statement of reasons may be obtained, when it becomes available, from the agency contact person or backup contact person identified in this notice.

ACCESSING INFORMATION REGARDING THIS FILE ON THE DEPARTMENT OF CONSERVATION WEBSITE

The text of the proposed regulations, the Notice of Proposed Action, the Initial Statement of Reasons and the Final Statement of Reasons, when available for review, will be on the Department of Conservation website at: www.consrv.ca.gov.

TITLE 14. FISH AND GAME COMMISSION

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 240, 7071, 7072, 7075, 7078, 7652, 8587.1, and 8588 of the Fish and Game Code and to implement, interpret or make specific sections 96.5, 97, 97.5, 98, 2362, 7050, 7051, 7055, 7056, 7060, 7070, 7071, 7072, 7075, 7078, 7082, 7083, 7086, 7087, 7088, 8383, 8383.5, 8385, 8587, 8587.1, 8588, 8623, 9001.5, 9001.6, 9001.7, 9027, and 9027.5 of said Code, proposes to add Article 3, sections 52.00, 52.01, 52.02, 52.03, and 52.04, 52.05, and 52.09, and amend sections 150.01, 150.16, and 150.17, Title 14, California Code of Regulations, regarding Nearshore Fishery Management Plan Implementing Regulations, and Commercial Take of Nearshore Fishes, Commercial Nearshore Fishing Gear.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing laws and regulations governing fisheries for nearshore fish stocks in ocean waters off California include a combination of state and federal laws, rules, and regulations adopted by the Fish and Game Commission (Commission), Pacific Fishery Management Council (Council), California Legislature, and United States Congress. A total of 19 species of fish are presently identified in existing regulation as nearshore fish stocks [Section 1.90, Title 14, California Code of Regulations (CCR)]. These include 16 species of federally managed groundfish [thirteen species of nearshore rockfish (blue, black, black-and-yellow, brown, calico, China, copper, gopher, grass, kelp, quillback, and olive rockfishes, and treefish),

cabezon, kelp greenling, and California scorpionfish], and three state managed species (California sheephead, rock greenling, and monkeyface eel).

Under existing law, the Marine Life Management Act of 1998 (MLMA) directs the Fish and Game Commission (Commission) to adopt a Nearshore Fishery Management Plan (Nearshore FMP or Plan), and to adopt implementing regulations not later than 60 days after adoption of the Nearshore FMP. The Nearshore FMP that these proposed regulations will implement, is prepared as a "project" under the California Environmental Quality Act (CEQA). Regulations are proposed to implement the Nearshore FMP, including options from which the Commission will select measures for management of nearshore fisheries to meet the goals and objectives of the Plan and policies of the MLMA. Also, amendments to current nearshore fishery regulations are proposed, as described below.

Existing laws and regulations involving nearshore fisheries and the Nearshore FMP include the following Fish and Game Code Statutes that:

1. provide authority for the Commission to adopt regulations that implement a fishery management plan or plan amendment and make inoperative any fishery management statute that applies to that fishery [Fish and Game Code subsections 7071(b) and 8587.1(b)],
2. provide authority for the Commission to adopt regulations as it determines necessary, based on the advice and recommendations of the department, consistent with the process specified in the MLMA [Fish and Game Code subsections 7071(c) and 8587.1(a)],
3. direct the Commission to adopt a fishery management plan for the nearshore fishery on or before January 1, 2002 [Fish and Game Code subsection 7072(d)],
4. provide legislative findings and declarations for nearshore fisheries management (Fish and Game Code Section 8585.5),
5. add definitions of nearshore fish stocks, nearshore fisheries, and nearshore waters (Fish and Game Code Section 8586),
6. create a nearshore fishery permit and fee for commercial nearshore fishery (Fish and Game Code Section 8587),
7. authorize the Commission to regulate commercial nearshore fisheries (Fish and Game Code sections 7071 and 8587.1),
8. authorize the Commission revocation of a nearshore permit for a violation of nearshore statutes (Fish and Game Code Section 8589.5),

9. specify the deposition of funds from the nearshore permit and the source of funding to support preparation of the Nearshore FMP (Fish and Game Code Section 8589); and

Title 14 regulations adopted by the Commission that:

1. define *Nearshore fish stocks*, *nearshore fisheries*, and *nearshore waters* (Adoption of this regulation in December 2000 included making Fish and Game Code Section 8586 inoperative)(Section 1.90, Title 14, CCR),
2. authorize a general sport fishing daily bag and possession limit of 10 rockfish in combination of species that applies to nearshore rockfishes (Section 27.60),
3. describe authorized sport fishing seasons, minimum sizes, daily bag limits, and fishing area restrictions for nearshore rockfish, cabezon, kelp and rock greenlings, California sheephead, and California scorpionfish (Sections 27.60, 28.26, 27.65, 28.28, 28.29, 28.54, and 28.55, Title 14, CCR),
4. describe fishery management areas and cowcod closure areas where restrictions or special authorizations for sport take of nearshore fishes apply (Section 27.82, Title 14, CCR),
5. authorize the transport of sport-caught fish through a closed area (Section 27.67, Title 14, CCR),
6. set a limit of two hooks and one line when rockfish or lingcod are aboard (Section 28.65, Title 14, CCR),
7. place a moratorium on the issuance of new nearshore fishery permits and establish a control date of December 31, 1999 for purposes of establishing a restricted access nearshore fishery (Section 150, Title 14, CCR),
8. specify that a nearshore fishing permit is only required for the commercial take of the 10 species of nearshore fishes originally described in Fish and Game Code Section 8588 (Section 150.01, Title 14, CCR),
9. establish a control date of October 20, 2000 for the purpose of developing and implementing a gear endorsement program (Section 150.03, Title 14, CCR),
10. list the closed commercial seasons and areas for cabezon, kelp greenling, rock greenling, lingcod, sheephead, and specify the commercial minimum size limits for 10 nearshore fish stocks and direct that species with trip limits, size limits, or

optimum yield specified shall be sorted prior to weighing and weight reported separately on the fish receipt (Section 150.16, Title 14, CCR), and

11. limit the number of hooks that may be used on a vessel to take nearshore fish stocks for commercial purposes within one mile of the mainland shore (Section 150.17, Title 14, CCR)

Regulation changes being considered by the Commission will add new nearshore fishery management provisions to Chapter 5.5 of Subdivision 1, Division 1, of Title 14, CCR to implement a Nearshore Fishery Management Plan, describe the Plan's purpose and scope, process and timing of monitoring, assessment, and management of nearshore fisheries under the plan, and provide definitions of terms used in the Plan and implementing regulations. Also, regulations proposed to be added to Chapter 5.5 describe "project" alternatives (combinations of management measures) from which the Commission will select one "project" (one or more management measures) for management of nearshore fish stocks and fisheries. Regulations proposed for consideration and adoption by the Commission also describe options for regional management, describe the basis and criteria for allocation decisions, include three options describing how allocation will be conducted, describe the process of setting Total Allowable Catches (TACs) for nearshore rockfish, add mechanisms for closing the fishery for nearshore rockfish and notifying the public, including fishery participants. Regulations would also be adopted to clarify in regulation provisions of the Fish and Game Code that describe the number of persons needing a nearshore fishery permit when taking and landing nearshore fish from a vessel, specify that nearshore fishery permits are revocable, and that the fee for a nearshore permit is \$125.00. Regulations also are proposed to specify that any nearshore fish must be measured immediately and returned to the water immediately if shorter than the minimum size limit, specify that adoption of size limits, or changes to such limits be based on the best available scientific information and adopted following public notice and at least one public hearing, and that would require the sorting by species prior to weighing of any nearshore fish as defined in Section 1.90, Title 14, CCR. Finally, three regulatory options are being proposed that would amend commercial nearshore fishery gear regulations to: 1) either specify in one regulation areas where the current limit of 150 hooks and 15 hooks per line is in effect along the California coast, 2) restrict commercial fishing for nearshore fishes to the use of hand-line or rod-and-reel gear with not more than two hooks per line, and lines attached to the boat or person, or 3) would prohibit the take, possession, sale, landing or purchase of nearshore fish stocks from California waters.

More specifically, proposed regulation changes would:

1. add provisions that describe the purpose and scope of the Nearshore FMP, and describe the location in Title 14, CCR, of regulations that deal either with recreational or commercial fishing for nearshore species (proposed Section 52.00, Title 14, CCR),
2. provide definitions for *Allocation*, *Cape Mendocino*, *Council/PFMC*, *Fishery Control Rule*, *National Marine Fisheries Service*, *Nearshore Fishery Management Plan*, *Nearshore Rockfish*, *Overfished*, *Overfishing*, *Quota*, *Total Allowable Catch* or *TAC*, and *Unfished Biomass* (proposed new Section 52.01, Title 14, CCR),
3. direct that management of nearshore rockfish conform to goals, objectives, criteria, procedures and fishery control rule guidelines, describe the process and timing of nearshore fishery management, monitoring, assessment, and adoption of management measures, and authorize the Director to appoint advisory panels to provide for public input and assistance in the review of fishery assessments, management proposals, and proposed plan amendments (proposed new Section 52.02, Title 14, CCR) (proposed new Section 52.02, Title 14, CCR),
4. describe three options for achieving nearshore fishery management goals and objectives that each include one or more measures involving fishery control rules, allocation, regional management, marine protected areas, nearshore finfish conservation areas, restricted access, prohibitions on take, possession, landing, sale, and purchase of 19 nearshore species of fish from waters off California, and restrictions on commercial fishing gear that may be adopted by the Commission as an option or modified option (proposed new Section 52.03, Title 14, CCR),
5. describe three regional management options to include 1) two regions reflecting the Pacific Fishery Management Council's current rockfish and lingcod management areas, 2) three management regions in northern central, and southern California, and 3) four management regions with a central region divided into a north-central and south-central region (proposed new Section 52.04, Title 14, CCR),
6. provide the basis for allocation of nearshore fish stocks, factors that will be considered during changes in allocation, describe the conditions under which an allocation may be determined a routine management measure, and proposes options for determining allocation including the need to comply with Federal allocation until transfer of management authority is complete, allocation

based on stock size, allocation based on economic benefit to the state, and allocation applied regionally using historic and regional information (proposed new Section 52.05, Title 14, CCR),

7. describe how the total allowable catch (TAC) of nearshore rockfish is determined, authorize department closure of the fishery when the TAC is reached, or expected to be reached, and describe how public notice of closures will be conducted (proposed new Section 52.09, Title 14, CCR),
8. clarify in regulation, and make consistent with current Fish and Game Code law, provisions specifying that the Nearshore Fishery permit is needed to take nearshore fishes, one Nearshore Fishery permittee must be aboard a vessel when fishing, the permit is revocable, and the fee for a permit is \$125.00 (proposed change to Section 150.01, Title 14, CCR),
9. require that all nearshore fish defined under Section 1.90 be sorted by species prior to weighing and the weight be recorded separately on the landing receipt, and adopt as regulation current Fish and Game Code requirements that nearshore fish with size limits be measured when first brought aboard and released immediately if undersize, and that adoption of regulations setting or modifying minimum or maximum size limits be based on the best available scientific information (proposed changes to Section 150.16, Title 14, CCR), and
10. provide three options that would either 1) clarify in one regulation the current areas identified in Fish and Game Code sections 9027 and 9027.5 where the restriction on number of hooks and lines that may be used commercially to take nearshore fishes applies off California, or 2) restrict the commercial take of nearshore fishes to the use of hand-line and rod-and-reel fishing gear, including not more than two lines per person and four lines per boat, not more than two hooks per line, and the gear must be attached to the person or vessel, with specified limits on the flexibility and breaking strength of the line and the size of the terminal weight or jig, or 3) prohibit the commercial take, possession, landing, sale, and purchase of nearshore fishes from waters off California.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Lakeland Village Beach & Mountain Resort, Lake Shore Room, 3535 Lake Tahoe Boulevard, South Lake Tahoe, CA, on Thursday, June 20, 2002, at 10:00 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the City Hall, City Council Chambers, 990 Palm Street, San Luis Obispo, CA, on Friday, August 2, 2002, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Elihu Harris State Building, 1st Floor Auditorium, 1515 Clay Street, Oakland, CA, on Friday, August 30, 2002, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before August 23, 2002, at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than August 30, 2002, at the hearing in Oakland, CA. E-mail comments must include the true name and mailing address of the commentor.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rule-making file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Sherrie Koell at the preceding address or phone number. Don Schultze, Marine Region, Department of Fish and Game, phone (916) 227-5670, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>.

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following

initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

Generally, participants in the commercial sectors of the nearshore fishery are small business operators. The nearshore commercial fishery is conducted from small to moderately sized vessels (about 12–45 feet in length) that utilize primarily hook-and-line and trap fishing gear in nearshore waters. From one to two fishermen typically operate from a single vessel. Also, owners and operators of commercial passenger fishing vessels (CPFVs), that carry anglers fishing for a fee, operate from most major ports off California and fish, to varying degrees, for nearshore fishes. Discussions of the “Socioeconomic Benefits of the Fishery” and “Socioeconomic Dimensions of the Fishery” are included in Section 1, Chapter 4 of the Nearshore FMP.

Several measures that may potentially affect the nearshore fisheries are included with regulations being considered for adoption. Measures being considered range from no change in current management to a total prohibition on commercial sale of nearshore fish.

Department Recommended Nearshore Fishery Management Plan “Project”: As background, the Department’s Recommended Nearshore FMP Project involves a combination of management measures including a fishery control rule that integrates essential fisheries information (EFI) about the demographics of target species, the ecosystem effects of the fishery, and the effects of environmental change on the fishery. It then sets criteria for three different levels of availability of EFI: data-poor, data-moderate, or data-rich circumstances. Finally, it designs management strategies that include more or less precaution, depending on the level of EFI.

The current level of availability of EFI for almost all nearshore fishes is data poor which results in greater precautionary adjustments being utilized to address uncertainty about ecosystem effects on stocks and fisheries. Stage 1 management is slated to include a suite of management measures that can affect fishery participants. These include the use of catch history (such as that being utilized now for California sheephead, cabezon, and greenlings) for setting total allowable catches (TACs) for each species or species group of nearshore fishes, regional management of nearshore fish stocks (three regions under the Depart-

ment's preferred recommendation), allocation of the TACs of nearshore fishes between recreational and commercial fisheries, marine protected areas (MPAs)(where no fishing occurs), and restricted access (seeks to align the fishing capacity of the commercial fisheries with available fishery resources consistent with sustainable use policy of the MLMA).

As indicated above, development of MPAs and a restricted access program are works-in-progress. Therefore, in the absence of specifics regarding these measures, estimates of the economic impacts on businesses are speculative. These measures may have immediate and potentially protracted negative economic effects on nearshore fishery businesses due to their expected curtailment of fishing in MPAs and by elimination of some fishery participants that do not meet restricted access criteria. However, in the long-term, healthier (more sustainable) stocks of nearshore fishes and a nearshore fleet that is in better balance with available nearshore resources, should have positive economic effects on those continuously involved in the fishery.

This leaves the effects of setting TACs using catch history, regional management, allocation, and gear restrictions (the later are alternatives to the "recommended" management approach) as the principal measures being considered that may have an economic impact on small businesses.

Determination of Total Allowable Catch (TAC): TAC for Stage 1 (data-poor) management will utilize catch history under the preferred option. Determination of the TACs for individual species of nearshore fishes, and for nearshore rockfish as a species complex, are proposed to be the same as last year. Therefore, adoption of annual catches as proposed should result in no immediate new economic effects on the fisheries. The proposed regulations would authorize the Commission to use measures such as a restrictions in catch, time, area, or gear to keep harvests within total allowable catches. These actions have the potential for causing adverse economic effect in the fishery in the short term, but should result in long-term positive impacts due to increased sustainability of the nearshore fishery resources resulting in increased total fishery harvests over time.

Regional Management (proposed Section 52.04),

Three regional management options are proposed that include: two management regions that correspond to the current management areas created under the Pacific Fishery Management Council's Pacific Coast Groundfish Fishery Management Plan; three management areas south of the

California-Oregon border, a north coast region, a central coast region, and a south coast region (the Department's recommended preferred alternative); and four management areas south of the California-Oregon border, a north coast region, a north-central coast region, a south central coast region, and a south coast region.

Economic impacts on the nearshore fisheries as a whole are not expected to result from adoption of a regional management option because no changes are proposed at this time to the total annual catches of nearshore fish stocks. Allocations of the total annual harvests among regions might change the total take of nearshore fish stocks within a particular region, compared with recent historic catches. However, active markets will tend to distribute nearshore fisheries goods and services statewide, according to consumer demand.

Potential economic impacts from allocation of annual catches for a fishery in different regions might range from no impact, to moderate impacts, depending on the region, the species, or species group for which annual catches are being allocated, and the allocation methodology utilized to apportion total annual harvests between regions. The current nearshore fishery has expanded coastwide in recent years with the fishery generally expanding from south to north in the state. Also, different species of nearshore fish predominate in the catch in different areas of the coast. If catches made during recent years are used to apportion annual harvests within a fishery, as anticipated, the impacts are expected to be negligible. However, if an extended past series of years of either sport or commercial catch data is used to determine allocations within a fishery for different regions in the state, allocations of annual harvests might differ from the current proportions that exist for landings made along the coast. This might result in a fishery in a region being allocated a larger or smaller catch than has traditionally been taken during the year. Economic impacts are expected to be dealt with and losses minimized prior to allocation of nearshore annual catches by region through more detailed examination of catch records for species, pounds and value of fish caught and landed in each region, and through interactions with fishery participants. Long-term economic benefits are expected as a result of abating the collapse of the nearshore fishery, due to overharvesting under current regulations, and benefits will result from rational allocation approaches that maximize the value of the resource used.

Allocation (proposed Section 52.05):

Options for determining allocation are proposed. Presently Commission allocations between sport and commercial fisheries have been made only for California sheephead, cabezon, and greenlings using historic catch data, while the Council has allocated nearshore rockfish. If allocation ratios for these species change due to a change in the method of determining allocation, either a positive or negative economic impact could result to one of these fisheries depending on whether the fishery is allocated more or less of the annual harvest. No changes were made in 2002 to the authorized annual harvests (OYs) set during December of 2000 for these species, so potential economic impacts of changes in allocation would result from a shifting of authorized take from one fishery to the other. Also, if the Commission chose to reallocate unused annual catch from a fishery that is not expected to fully utilize its allocation, this could have an immediate positive economic impact on the fishery receiving the additional allocation by providing for its continued operation, and would result in full utilization of the entire authorized annual catch.

The current allocation process for sheephead, cabezon, and greenlings utilize a ratio of historic catches for 1983 through 1989 and 1993 through 1999. The Department's preferred Option 1 would utilize this same approach but apply it regionally to three regions along the coast, and include a careful review of commercial and recreational landings. This option may result in some changes in allocation of cabezon and greenling (allocation would not be expected to change for sheephead which are taken primarily in one of these regions), if the ratio of catches for the central and northern regions differs from the current statewide allocation, which presently allocates the majority of annual harvest to the recreational fishery. Regional data have not yet been developed to further evaluate the effects of allocation on a regional basis.

Also being considered are an allocation based on stock size, and an allocation based on economic benefits to the state. There is insufficient information presently available to determine whether there would be a significant change in allocation ratios between sport and commercial fisheries under the three options. Estimates of actual stock sizes are not presently available to determine if greater or lesser annual harvests could be authorized under this option (Option 2). Recreational interests would benefit initially under this alternative. Subsequently, as biomass increases, increasing

annual harvests, up to a point, would be allocated to the commercial fishery under this option until parity between sport and commercial annual harvests are reached at which point their annual harvest would increase equally. With regard to allocation based on economic benefit to the state (Option 3), statewide and regional economic and fisheries data needed to allocate nearshore fishery TACs on this basis are not presently available. Therefore, allocation projections between major user sectors and estimates of economic impacts cannot be derived at this time.

Limit Commercial Fishing for Nearshore Fishes to Handlines and Rod-and-Reel Gear (proposed amendments to Section 150.17):

This proposal was considered late last year in a separate rulemaking during Commission adoption of interim nearshore fisheries management regulations. As indicated above, the Commission declined to proceed with the proposal at that time and directed that it be considered as a management alternative within the Nearshore FMP.

There are several economic aspects to consider in contemplating a gear restriction that would constrain commercial fishermen in the nearshore to using rod-and-reel gear. In general, this approach will result in substantial increases in operating costs to the commercial fishery, because commercial fishermen are required to use relatively inefficient hand-line or rod-and-reel gear (two lines per person with two hook limits per line).

Increased costs of harvesting will result in increased prices to end buyers and consumers. As a result, individual consumers will likely decrease their demand for commercial products in response to increased prices (due to price elasticity of consumer demand). Reduced demand and purchases of commercial products, plus shifts to substitutes for commercial products, further exacerbate direct economic losses to fishermen as their market share for commercial products erodes. Empirical evidence and economic theory project that consumers will purchase less of the fishery products when the price is increased. As a result, consumer market share for nearshore seafood products will erode as consumers, faced with price increases, choose to purchase fewer nearshore fishery products or choose to purchase more of some other substitute product. In either case, the commercial fishing industry loses some measure of market share for its nearshore fishery products.

Effects on profits and business activities in the commercial sector ultimately radiate into the local economy and fishing community as changes to revenue, income, and employment. The relatively

inefficient rod-and-reel gear reduces harvest efficiency for the fishermen (relative to existing commercial gear), causing fishermen to either fish this gear harder in order to maintain their economic standing or reduce their scale of business operations to accommodate the harvest limitations of the gear, or both. Fishing the gear harder could entail an increase in number of trips per day or hours fished per day. Alternatively, since the gear requires direct attachment to a person, the fisherman may try to employ additional crew (subject to physical and safety limitations of the vessel) in order to fish more hooks at a time. In either case, the net economic returns from commercial fishing are curtailed for small, medium, and large-scale fishing operations that harvest the nearshore area.

A hand-line/rod-and-reel gear limitation and the resulting revenue effect to fishermen, would likely put moderate-to-large-scale commercial fishing operations out of business if they are primarily dependent on the nearshore fishery. This is because the return on investment, or capital, under this gear constraint would probably not cover their fixed costs for vessel and equipment. Furthermore, the resale and salvage value of their existing gear (and vessel) is greatly diminished, hampering their ability to liquidate assets and invest in some other occupation or fishing activity.

Another result of increased harvest costs occurs in the consumer markets for nearshore fishery products, where prices for fishery end products would increase. This is the result of increased costs of production at the harvest and intermediate product levels being carried into the consumer market (where fishery end products and services are bought and sold).

Losses in market demand and market share result in decreases in revenue and revenue potential. Under declining market conditions there is some critical level of market share below which the product is no longer viable. When this happens the product leaves the consumer domain of normal goods, and either disappears or is relegated to an inferior good or specialty item. Complementary goods or bundled items that would usually be purchased along with the fishery product are also affected as their market demand declines too. Lastly, the ripple effect of declining market share and revenue losses for commercial fishermen comes to rest in the local economies and fishing communities dependent on the nearshore. Such downstream effects can manifest as changes in entire local economies, including ancillary industries, local personal income, and local employment.

Restrict the Take, Possession, Landing, Sale, and Purchase of Nearshore Fish Stocks from Waters off California (proposed amendment to Section 150.17):

This option (Option 3) would likely result in the elimination of the commercial take of nearshore fish stocks. The annual ex-vessel value of commercial landings of nearshore fish stocks in 1999 was approximately \$3.3 million, or the equivalent of \$3.5 million in year 2000 dollars. This could be a fair approximation of the expected economic impact to commercial fishermen of a total commercial closure to the take of nearshore fish stocks in state waters off California. The economic impact to associated fish businesses would be additive to the ex-vessel value impact to the extent that these other fish businesses rely on the purchase and sale of nearshore fish stocks. Using economic multipliers for the State, the projected economic loss of \$3.5 million (ex-vessel), would result in an additional loss of \$3,285,900 to related industries in the State (that rely on or use the ex-vessel products). Consequently, the total economic loss to the State may be as much as \$6.8 million.

Furthermore, as for the hand line/rod-and-reel Option 2 above, the resale and salvage value of existing gear (and vessel), while not quantified here, is greatly diminished under this option, hampering fishermen's ability to liquidate assets and invest in some other occupation or fishing activity.

The Commission has made an initial determination that the adoption of these regulations may have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. The Commission has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit alternative proposals. Submissions may include the following considerations:

- (i) the establishment of differing compliance or reporting requirements or timetables which take into account the resources available to businesses;
 - (ii) consolidation or simplification of compliance and reporting requirements for businesses;
 - (iii) the use of performance standards rather than prescriptive standards; or
 - (iv) exemption or partial exemption from the regulatory requirements for business.
- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses

or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

Some of the alternatives associated with regulatory options being considered for adoption could result in the elimination of jobs within the state. The most apparent of these are options that would result in significant restriction of commercial fishing for nearshore fish stocks to rod-and-reel fishing gear, and a prohibition on the take, possession, landing, sale, or purchase of nearshore fish stocks from waters off California (Options 2 and 3 under Section 150.17) [also see discussion above under VI(a)]. At a minimum, it is likely that either of these options would result in the need for

some commercial nearshore fishermen that now rely on this fishery to consider other lines of work.

- (c) Cost Impacts on a Representative Private Person or Business: The cost impacts to a representative private persons or business are generally included in the discussion of impacts under (a).
- (d) Costs or Savings to State Agencies or Costs/ Savings in Federal funding to the State: None.

Costs to the Department associated with adoption and implementation of the proposed regulations are primarily those related to management, enforcement, and research needed to achieve nearshore fisheries management and regulation under the Nearshore FMP (Table 1).

Table 1. Estimated Annual Nearshore FMP Management, Enforcement and Research Costs

Description	Baseline	Redirection	New	FMP Ref. Sec. *
Management	\$1,294,000			Sec.1, Ch.5
Restricted Access	\$ 90,000		\$ 90,000	
Regional Allocation	\$ 90,000		\$ 90,000	
Enforcement	\$1,382,000			Sec.1, Ch.5
MPA Component			\$1,100,000	
Research	\$1,106,000			Sec.1, Ch.5
Coordination Unit		\$ 290,000		
North Coast Region		\$ 76,500	\$ 25,500	
Central Coast Region		\$ 917,500	\$ 306,500	
South Coast Region		\$ 636,000	\$ 212,000	
CFIS/MFSU			\$ 170,000	
Log Book Analysis			\$ 130,000	
Socio-Economic Studies			\$ 210,633	
Stock Abundance Studies			\$ 500,000	
Age/Growth Studies			\$ 238,700	
Education/Outreach			\$ 157,000	
Total Cost	\$3,962,000	\$1,920,000	\$3,230,333	

* For additional detail on how cost estimates were derived and further description of the identified needs, refer to the appropriate sections of the Nearshore FMP.

The current costs of management, enforcement, and research are based on expenditures during the state fiscal year for 2000–2001 (July 1 through June 30 of the following year). These baseline costs are anticipated to continue at this level with implementation of the Nearshore FMP.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 17. DEPARTMENT OF DEVELOPMENTAL SERVICES

Early Intervention Regulations

The Department of Developmental Services (DDS) proposes to amend Title 17 California Code of Regulations, Division 2, Chapter 2, Subchapter 1 by amending Section 52000; Subchapter 2 by amending

Sections 52082 and 52084; Subchapter 3 by amending Section 52109; Subchapter 5 Sections 52170, 52171, 52173, and 52175.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action of DDS. The written comment period closes at 5:00 p.m. on July 29, 2002. Please submit any written comments to the DDS contact persons designated below by 5:00 p.m. on July 29, 2002. Both oral and written comments will be received at the public hearing.

PUBLIC HEARINGS

Two public hearings to receive oral and written comments are scheduled as follows:

1. July 26, 2002 at 10:00 a.m. at 714 P Street, Sacramento, California, Auditorium
2. July 29, 2002 at 10:00 a.m. at Eastern Los Angeles Regional Center, 1000 South Fremont Ave, Alhambra, California, Auditorium.

DDS requests that persons who make oral comments at the public hearing submit a written copy of their testimony at the hearings. The hearing locations have wheelchair access.

AUTHORITY AND REFERENCE

Authority: Sections 95009 and 95028, Government Code.

Reference: Sections 95014 and 95028, Government Code. Sections 303.12(b), 303.19, 303.416(d)(i), 303.510, 303.512(c)(1-2), 303.520, 303.521, 303.527(c), Title 34 Code of Federal Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

As part of California's grant application for funds under Part C of Individuals with Disabilities Education Act (Title 20 United States Code Section 1431 et seq.), DDS, as the Part C lead agency, is required to make revisions to the Early Start regulations, consistent with applicable federal regulations. The proposed changes specifically address the 1997 and 1999 revisions to 34 CFR Part 303. In addition to changes mandatory to assure federal funding, other technical, nonsubstantive revisions are proposed to clarify the intent of certain Early Start regulations.

Section 52000, subsection (b) (36) has been amended to modify the definition of parent to include foster parents, when the rights of the biological parents of an infant or toddler have been relinquished or removed.

Section 52082, Title, was amended to clarify that the contents of this section address only the evaluation for eligibility process.

Section 52082, subsection (b) was amended to clarify that the contents of this section address only the evaluation for eligibility process.

Section 52082, subsection (i) was added to clarify that the eligibility process should, whenever possible, occur in a natural environment. The text was previously part of Section 52084 (e), which otherwise addresses only assessment for service planning.

Section 52084, subsection (e) was amended to exclusively address the assessment for service planning process. The information about eligibility was moved to Section 52082.

Section 52109, subsection (b) was amended to clarify that a family's private insurance is not a responsible payer for early intervention services. Also, language was added to clarify that public agencies other than those listed might have responsibility for payment for early intervention services.

Section 52109, subsection (c) was added to assure that a family's private insurance is not used to pay for early intervention services, unless the family provides informed written consent to do so.

Section 52170, subsection (c) was added to specify the time lines within which complaints regarding early intervention services must be filed with DDS.

Sections 52170, subsections (d) through (g) were re-numbered due to the addition of a new subsection (c).

Section 52170, subsection (e) was amended to correct the address where complaints are filed.

Section 52171, new subsections (a)(4)(A) and (B) were added to specify the types of remedies that may be included in complaint decisions.

Section 52171, old subsection (4) was deleted, since changes to federal law and regulations mandate that State complaint decisions are final and may not be appealed.

Section 52171 (c) was added to specify procedures for responding to a complaint, when one or more issues contained in the complaint are also part of a due process hearing.

Section 52172, subsection (d) was added to clarify that if an issue is raised in a complaint that has already been decided in a due process hearing involving the same parties, then the hearing decision is binding.

Section 52172, subsection (e) was added to clarify that DDS shall resolve any complaint alleging the failure to implement a due process decision.

Section 52173, subsection (j) was added to clarify that discussion during mediation must be confidential and may not be used as evidence in subsequent due process or civil proceedings.

Section 52175, subsection (b) (5) was amended to ensure that a surrogate parent is not an employee of a state agency. Also, the subsection states that a surrogate parent is not considered an employee solely because he or she is by a state agency to serve as a surrogate parent.

SMALL BUSINESS DETERMINATION

DDS has determined that the proposed regulations will not affect small business. The proposed regulations make only technical, non-substantive or clarifying changes to current regulations.

LOCAL MANDATE DETERMINATION

DDS has determined that the proposed regulatory actions do not impose: 1) a mandate on local agencies or school districts; 2) significant costs or savings to any state agency; 3) costs to any local agency or school district that must be reimbursed in accordance with Government Code section 17500 through 17630; 4) other nondiscretionary costs or savings imposed on local agencies; 5) costs or savings in federal funding to the state.

ASSESSMENT STATEMENT

DDS has determined that the proposed regulations will not affect the creation or elimination of jobs in California; the creation of new businesses or the elimination of existing businesses within California; or the expansion of businesses currently operating in California.

DDS has made an initial determination that the proposed regulations will not have: 1) a significant statewide adverse economic impact directly affecting business including the ability of California business to compete with businesses in other states; or 2) a significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

DDS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ALTERNATIVES CONSIDERED

DDS must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of DDS would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

DDS invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or at the public hearings.

CONTACT PERSON

Comments and inquiries concerning the proposed action or substance of the proposed action may be directed to:

Attention: John Ellis, Community Program
Specialist II

Early Start Local Support Section
Department of Developmental Services
1600 Ninth Street, Room 330, MS 3-8
Sacramento, California 95814
Email: jellis1@dds.ca.gov
Phone: (916) 654-2190
FAX: (916) 654-3255

If Mr. Ellis is unavailable, comments and inquiries concerning the proposed action or substance of the proposed action may be directed to:

Attention: Ken Freedlander, Chief
Early Start Local Support Section
Department of Developmental Services
1600 Ninth Street, Room 330, MS 3-8
Sacramento, California 95814
Email: kfreedla@dds.ca.gov
Phone: (916) 654-2760
FAX: (916) 654-3255

AVAILABILITY OF RULEMAKING DOCUMENTS

DDS has prepared and has copies ready for public review of the exact text of the proposed regulations, and Initial Statement of Reasons for the proposed regulations, and all of the information upon which the proposed regulations are based. Copies of the initial statement of reasons and text of the proposed regulations, along with all other public records, reports documentation or other material related to the proposed regulations will be contained in the rulemaking file and will be available for inspection and copying throughout the rulemaking process from the contact person at the above address. In addition, the text, Initial Statement of Reasons and other materials for this rulemaking may be viewed over the internet at www.dds.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the close of the comment period, DDS may adopt the proposed regulations as described in this notice. If DDS makes modifications that are sufficiently related to the originally proposed text, it will make the modified text, with changes clearly indicated, available for public comment at least 15 days before DDS adopts the regulations as revised. If the text is modified, the text may be viewed over the internet at www.dds.ca.gov. Please send requests for copies of any modified regulations to the contact persons named above.

FINAL STATEMENT OF REASONS

When the Final Statement of Reasons is available, it may be viewed over the internet at www.dds.ca.gov. Additionally, requests for the Final Statement of Reasons could be made to the contact persons named above.

TITLE 22. DEPARTMENT OF CHILD SUPPORT SERVICES

NOTICE IS HEREBY GIVEN that the Department of Child Support Services (DCSS) has adopted these regulations on an emergency basis effective May 2, 2002; and now proposes to adopt them as permanent regulations amending Division 13 of Title 22 of the California Code of Regulations commencing with Section 110411. These regulations establish requirements for consistent state/county plans of cooperation and local plans of cooperation provisions to promote uniform quality of child support services statewide and year to year.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Family Code Section 17304(a) requires the Department of Child Support Services (DCSS) to negotiate and enter into plans of cooperation or cooperative agreements with local child support agencies to carry out the requirements of the state plan and provide services relating to the establishment of paternity, and the establishment, modification, and enforcement of child support obligations, as required pursuant to Section 654 of Title 42 of the United States Code.

Welfare and Institutions Code Section 10081 further requires an annual automation cooperation agreement between DCSS and the local child support agencies to define the responsibilities, activities, milestones, & consequences in regard to automation, and provide the authority for DCSS to pass through federal funding for automation of child support services. The annual automation cooperation agreement is included as part of the cooperative agreement required by Family Code Section 17304(a).

45 Code of Federal Regulations Section 303.107 mandates minimum components for all plans of cooperation.

This rulemaking implements, interprets or makes specific the state laws and federal regulations cited above and makes the following changes to Title 22, California Code of Regulations:

Chapter 1. Program Administration.

Section 110411 was adopted to define the term "Local Plan of Cooperation" as this regulatory package sets forth the authority to enter into local plans of cooperation.

Section 110625 was adopted to define the term "State/County Plan of Cooperation". This is an essential concept for this rulemaking, which mandates local child support agencies enter into such plans of cooperation with DCSS.

Section 111110 was adopted to specify the minimum components of the State/County Plan of Cooperation. This establishes a framework to facilitate consistent content of these State/County Plans of Cooperation statewide and year to year.

Section 111120 was adopted to specify the administrative requirements surrounding the required State/County Plans of Cooperation. Administrative issues include, duration, renewal, amendment, signature, deadline, and potential consequences for failing to meet these administrative requirements.

Section 111210 was adopted to specify the circumstances under which a local child support agency is authorized to subcontract limited child support related functions to other county agencies by entering into Local Plans of Cooperation.

Section 111220 was adopted to specify the minimum components of a Local Plan of Cooperation. This establishes a framework to facilitate the consistent content of Local Plans of Cooperation statewide and year to year.

Section 111230 was adopted to specify the process by which the Department shall handle the approval of Local Plans of Cooperation.

Department of Social Services, Manual of Policies and Procedures, Sections 12-000, 12-003, and AP-PENDIX I have been repealed because the regulatory provisions previously contained in those sections have been modified and relocated to Title 22 of the California Code of Regulations by this rulemaking.

AUTHORITY AND REFERENCE CITATIONS

AUTHORITY: Sections 17306, 17310 and 17312, of the Family Code.

REFERENCE: Section 17304, Family Code; Section 10081, Welfare and Institutions Code; and 45 CFR Section 303.107.

PUBLIC COMMENT PERIOD

Written public comments presenting statements, arguments, or contentions relating to the text of the proposed regulations will be accepted for a period of forty-five (45) days beginning on June 14, 2002 and ending at 5 p.m. on July 30, 2002. Public comments will be accepted by any of the following means:

1. Mailed to:
Dept. of Child Support Services
Attn: Regulations Coordinator
P.O. Box 419064
Rancho Cordova, CA 95741-9064

2. Faxed to:
Dept of Child Support Services
Attn: Regulations Coordinator
(916) 464-5069
3. E-mailed to the Regulations Coordinator:
Lucila.Ledesma@dcss.ca.gov

PUBLIC HEARING

No public hearing is scheduled. Pursuant to the provisions of Government Code Section 11346.8, any interested party may request that a public hearing be scheduled. The request must be in writing and received at the above addresses for the DCSS Regulations Coordinator no later than fifteen (15) days prior to the close of the public comment period.

CONTACTS

Copies of documents and general information regarding this rulemaking may be secured by contacting Lucila Ledesma the Regulations Coordinator at 916-464-5087.

In case you are unable to reach the Regulations Coordinator, the DCSS alternative contact person for general information about this rulemaking is Donna Hershkowitz at 916-464-5181.

If you have a substantive question regarding the content of this rulemaking, you may contact Mike Farrell, supervisor of the Program Support section, at 916-464-5040.

HOW TO GET COPIES OF RULEMAKING DOCUMENTS

Copies of the full text of the proposed regulations, an initial statement of reasons, and all information on which this rulemaking is based may be secured from the DCSS Regulations Coordinator at the above addresses. Some of these documents are also available on the Department's public website at www.childsup.cahwnet.gov/.

The full text of a regulation changed pursuant to Government Code Section 11346.8 will be available for at least fifteen (15) days prior to the date on which DCSS adopts the resulting regulation. During that period, it may also be secured from the DCSS Regulations Coordinator at the above addresses.

Once the final statement of reasons becomes available it may also be secured from the contact persons identified above or from the DCSS public website at www.childsup.cahwnet.gov/.

IMPACT ON INDIVIDUALS AND BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Department has made an initial determination that the regulations would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. These regulations impact the cooperation between the Department and local child support agencies and between local child support agencies and other county administrative departments.

The Department has determined that the regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California.
- (2) The creation of new businesses or the elimination of existing businesses within the State of California.
- (3) The expansion of businesses currently doing business within the State of California.

The Department has determined that the regulations would not affect small businesses. Small business would not be required to comply with or enforce these regulations nor are they expected to incur either benefits or detriments from them.

LOCAL MANDATE

The Department has determined that the regulations would not impose a mandate on local agencies or school districts.

Fiscal Impacts

- A. Fiscal Effect on Local Government: None.
- B. Cost or Savings to Any State Agency: None.
- C. Cost or Savings in Federal Funding to the State: None.
- D. Other Nondiscretionary Costs or Savings Imposed on Local Agencies: None.

IMPACT ON HOUSING COSTS

The Department has determined that these regulations will have no impact on housing costs.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified or brought to the attention of the Department would be more effective in carrying out the purpose for which these regulations are being implemented or would be as effective and less burdensome to affected private persons than these regulations.

TITLE 22. DEPARTMENT OF TOXIC SUBSTANCES CONTROL

Department Reference Number: R-99-17

NOTICE IS HEREBY GIVEN that the Department of Toxic Substances Control (DTSC) proposes to amend the California Code of Regulations, title 22, division 4.5, chapter 39 by adding a new section 67391.1. These regulations would establish the requirement to record land use covenants when residual contamination is left in place that is incompatible with unrestricted land use. These proposed regulations will clarify when it is appropriate for DTSC to require land use covenants, to record land use covenants, and the exceptions to these requirements. Land use covenants are also commonly referred to as "deed restrictions;" "covenants, conditions, and restrictions;" and "institutional controls." Recorded land use covenants are binding on all current and future property owners.

The purpose of recorded land use covenants is to protect the public health and safety and the environment when residual contamination is left in place and to prevent incompatible use of contaminated land or the surrounding property. The contamination could be hazardous materials, hazardous wastes, waste constituents, or hazardous substances that are left in place upon closure of a hazardous waste disposal facility, as part of either a short or long-term stabilization action, a corrective action, or a planned removal or remedial action.

PUBLIC HEARING AND WRITTEN COMMENT PERIOD

DTSC will hold a public hearing on the proposed regulations at 10:00 a.m. on **July 30, 2002**, in the Central Valley Auditorium, 2nd Floor, 1001 "I" Street, Sacramento, California, at which time any person may present statements or arguments orally or in writing, relevant to this proposal. Please submit written comments to the contact person listed at the end of this notice. Written comments on the rulemaking submitted no later than 5:00 p.m. on **July 30, 2002** will be considered.

Representatives of DTSC will preside at the hearing. Persons who wish to speak are requested to register before the hearing. Pre-hearing registration will be conducted at the location of the hearing from 9:30 a.m. to 10:00 a.m. Registered persons will be heard in the order of their registration. Any other person wishing to speak at the hearing will be afforded an opportunity after the registered persons have been heard.

AUTHORITY AND REFERENCE

Authority: chapter 6.8, Health and Safety Code section 25351.5; reference: chapter 6.8, Health and Safety Code section 25355.5 and 25356.1.5; and the

authority in chapter 6.5, Health and Safety Code section 25150; reference: chapter 6.5, Health and Safety Code sections 25202.5, 25222.1, and 25223; chapter 6.85, Health and Safety Code sections 25398.6(1), 25396(1), and 25398.7; and the California Code of Regulations, title 22, division 4.5, sections 66264.119 and 66265.119.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking affects the California Code of Regulations, title 22, division 4.5, chapter 39, by adding section 67391.1. These proposed regulations would establish the requirement to record land use covenants, which may do all of the following: (1) Ensure that information is made available to local government agencies and the public regarding property containing residual hazardous materials, hazardous wastes, waste constituents, or hazardous substances (because recorded land use covenants are binding on all current and future property owners); (2) Are required to be disclosed to real estate transaction participants (buyers, sellers, lending and financial institutions, real estate brokers and agents) indicating that the property in question contains residual contamination; (3) Ensure that long-term cleanup actions or measures or monitoring requirements are carried out and maintained as established by DTSC; and (4) Ensure that subsequent property owners or lessees have a duty to assume responsibility for any requirements or restrictions pertaining to residual contamination when they take over the property, such as maintaining an asphalt cap over soil to prevent soil contamination from being inhaled, ingested, or from coming into direct contact with nearby residents, workers, students, teachers, or the public at large.

The proposed regulations are needed to clarify when it is appropriate for DTSC to define land use restrictions or covenants, to record land use covenants, and the exceptions to the requirements when the federal government owns or controls properties that have residual contamination in place.

These regulations would require DTSC to clearly set forth and define land use limitations or covenants in a remedy selection or response action decision document prior to approving or concurring with a facility closure, corrective action, Removal Action Workplan (RAW), Remedial Action Plan (RAP), or other similar document when contamination will remain at the property at levels which are not suitable for unrestricted use of the land. The proposed regulations are also needed to clearly establish that DTSC will not certify that a site cleanup has been satisfactorily completed (except for any necessary long-term operation and maintenance activities) until any required land use covenant has been signed by

DTSC and the property owner and recorded in the County Recorder's Office where the property is located. These regulations would apply to site cleanup activities being conducted under the legal authorities of chapters 6.5, 6.8, or 6.85 of the Health and Safety Code, or at school sites where DTSC is overseeing the investigation and cleanup actions pursuant to the Education Code.

The proposed regulations are also needed to address situations involving property transfers for land owned by the federal government. DTSC has experienced problems when contamination (hazardous materials, hazardous wastes, waste constituents, or hazardous substances) is left in place at federally-owned lands, including military bases, and the federal agency has requested that the property be determined as "suitable for transfer," so that redevelopment can commence. These regulations would require appropriate land use covenants to be executed by DTSC and the federal agency (property owner) and properly recorded before the property could be determined as "suitable for transfer."

The proposed regulations contain an exception for federally-owned properties when DTSC determines that it is not feasible to record a land use covenant, such as transfers from one federal agency to another. With federally owned property (such as at an active military base), there usually is no deed to the property, so a land use covenant, which is a restriction on the deed that runs with the land in perpetuity, is not feasible. In these cases, DTSC will look at other options such as amending the facility master plan, installing physical monuments or entering into agreements between the facility and DTSC.

In addition to federally owned properties, there are other types of property in California which do not have formal deeds in County Recorders offices. For example, some current or former tidelands or submerged properties are owned generally by the State of California. In these cases, DTSC will look at other mechanisms such as installing physical monuments or entering into a memorandum or consent agreement with the entity controlling the property.

CALIFORNIA ENVIRONMENTAL QUALITY ACT COMPLIANCE

The proposed regulations are a project under the California Environmental Quality Act (CEQA). However, they are eligible for an exemption under title 14, section 15061 (b)(3), since it can be seen with certainty that there is no possibility that the rulemaking may have a significant environmental effect. These regulations will not result in potential for significant environmental impacts because they only enunciate the process for restricting contaminated properties and do not set the criteria for site clean ups or determine

the levels of contaminants left in place. Therefore, these regulations will not result directly or indirectly in possible adverse physical changes to the environment. The use of land use covenants as part of a site remediation or facility closure is a well established practice under state and federal law. A draft of the Notice of Exemption (NOE) is available for review with the rulemaking file and will be filed with the State Clearinghouse when the regulations are adopted.

PEER REVIEW

Under the provisions of Health and Safety Code section 57004, peer review is not required because the proposed regulations do not establish a regulatory level, standard or other requirement subject to scientific peer review.

BUSINESS REPORT

DTSC has determined that this rulemaking will not require businesses to write a new report, as defined by Government Code section 11346.3 (c).

FISCAL IMPACT ESTIMATES

Mandates on Local Agencies and School Districts: DTSC has made a preliminary determination that adoption of these regulations will create no new local mandates.

Estimate of Potential Cost or Savings to Local Agencies Subject to Reimbursement: DTSC has made a preliminary determination that adoption of these regulations will not impose a local mandate or result in costs subject to reimbursement pursuant to part 7 of division 4, commencing with section 17500, of the Government Code or other nondiscretionary costs or savings to local agencies.

Cost or Savings to Any State Agency: DTSC has made a preliminary determination that the proposed regulations will have no impact on State revenue or costs.

Cost or Savings in Federal Funding to the State: DTSC has made a preliminary determination that the proposed regulations will have no impact on Federal revenue or costs.

Effect on Housing Costs: DTSC has made an initial determination that there will be no impact on housing costs.

Cost Impacts on Representative Private Persons or Businesses: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant Statewide Adverse Economic Impact on Businesses: DTSC has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability to compete with businesses in other states.

Assessment Statement:

- (A) **Creation or Elimination of Jobs within California**—DTSC has made a preliminary determination that no jobs will be created or eliminated in California as a result of the proposed regulations.
- (B) **Creation of new businesses or the elimination of existing businesses within California**—DTSC has made a preliminary determination that no businesses will be created or eliminated in California as a result of the proposed regulations.
- (C) **Expansion of businesses currently doing business in California**—DTSC has made a preliminary determination that no businesses in California will be expanded as a result of the proposed regulations.

Effect on Small Businesses: DTSC has determined that provisions of this rulemaking will not have a significant adverse economic impact on small businesses.

CONSIDERATION OF ALTERNATIVES

DTSC must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of DTSC would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. DTSC invites interested persons to present arguments, with respect to the various options, at the scheduled hearing, or during the written comment period.

AVAILABILITY OF TEXT OF REGULATIONS AND STATEMENT OF REASONS

Copies of the Notice, Initial Statement of Reasons and the text of the proposed regulations are posted to DTSC's Internet site at <http://www.dtsc.ca.gov> or may be obtained from Ms. Joan Ferber of DTSC's Environmental Analysis and Regulations Section as specified below. The information upon which DTSC relied is also available at the address listed below.

POST-HEARING CHANGES

After the close of the comment period, DTSC may adopt the proposed regulation. If substantial changes are made, the modified text will be made available for comment for at least 15 days prior to adoption. Only persons who request the specific proposed regulations, attend the hearing, or provide written comments on these specific regulations will be sent a copy of the modified text, if substantive changes are made.

Once regulations have been adopted, DTSC prepares a Final Statement of Reasons which updates the Initial Statement of Reasons, summarizes how DTSC addressed comments and includes other materials, as

required by Government Code section 11346.9. Copies of the Final Statement of Reasons may be obtained from Ms. Joan Ferber at the address listed below. A copy of the Final Statement of Reasons will also be posted on DTSC's Internet site at <http://www.dtsc.ca.gov>, along with the date the rulemaking is filed with the Secretary of State and the effective date of the regulations.

CONTACT PERSONS

Inquiries regarding technical aspects of the proposed regulations or CEQA documents may be directed to Ms. Kathleen Hartshorne of DTSC's Site Mitigation Program at (916) 323-3395 or, if unavailable, Ms. Cathleen Pierce of DTSC's Site Mitigation Program at (916) 324-5790. However, such oral inquiries are not part of the rulemaking record.

Statements, arguments or contentions regarding rulemaking and/or supporting documents must be submitted in writing or may be presented orally or in writing at the public hearing in order for them to be considered by DTSC before it adopts, amends, or repeals these regulations. To be included in this regulation package's mailing list, and to receive updates of this rulemaking, please leave a message on the DTSC mailing list phone line at (916) 324-9933 or e-mail: regs@dtsc.ca.gov.

Please direct all written comments, procedural inquiries and requests for documents by mail, e-mail or fax to:

Ms. Joan Ferber, Regulations Coordinator
Environmental Analysis and Regulations Section
Department of Toxic Substances Control

Mailing Address: P.O. Box 806
Sacramento, CA 95812-0806

E-mail Address: regs@dtsc.ca.gov

Fax Number: (916) 323-3215

Ms. Ferber's phone number is (916) 322-6409. If Ms. Ferber is unavailable, please call Ms. Nicole Sotak at (916) 327-4508 or Mr. James McRitchie at (916) 327-8642.

**TITLE 28. DEPARTMENT OF
MANAGED HEALTH CARE**

**NOTICE OF INTENT TO ADOPT
REGULATIONS REGARDING CLAIMS
SETTLEMENT PRACTICES AND
DISPUTE RESOLUTION MECHANISMS**

NOTICE IS HEREBY GIVEN

The Director of the Department of Managed Health Care (Director), pursuant to the rulemaking authority granted by sections 1344 and 1346 of the Health and Safety Code, proposes to implement, interpret and make specific section 1371.38 of the Health and

Safety Code, relating to claims settlement practices and dispute resolution mechanisms. The proposed regulations are contained in the California Code of Regulations, Title 28, sections 1300.71 and 1300.71.38.

PUBLIC HEARING

No public hearing is scheduled. Any interested person or his or her duly authorized representative may request, in writing, a public hearing pursuant to section 11346.8(a) of the Government Code. The request for hearing must be received in writing by the Department of Managed Health Care (Department) contact person designated below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD/ CONTACT PERSON

Notice is also given that any interested person may present statements or arguments relevant to the proposed action by a written communication addressed to, and received by, the Department's contact person identified below on or before 5 p.m. on July 29, 2002. If this day is a Saturday, Sunday or state holiday, the comment period will close at 5 p.m. on the next business day. Written communications may also be sent to Lyn Amor Macaraeg via electronic mail at lmacaraeg@dmhc.ca.gov or via facsimile at (916) 324-6459.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Timely reimbursements of provider claims are necessary to ensure a stable and financially viable health care delivery system. Unreasonable delays by plans to settle provider claims results in unnecessary expenditure of personnel time and energy by providers in their repeated attempts to get claims paid. These resources would be better spent on providing quality health care services to enrollees. Furthermore, unpaid claims result in excessive financial burdens on doctors, hospitals and other providers.

California Health and Safety Code section 1344 mandates that the Director have the ability to adopt, amend, and rescind such rules, forms, and orders as are necessary to carry out the provisions of this chapter, including rules governing applications and reports, and defining any terms, whether or not used in this chapter, insofar as the definitions are not inconsistent with the provisions of the Knox-Keene Health Care Service Plan Act of 1975 (Act).

California Health and Safety code section 1346 vests in the Director the power to administer and enforce the Act, including but not limited to promoting and establishing standards of ethical conduct for the

administration of plans and undertaking activities to encourage responsibility in the promotion and sale of plan contracts.

Health and Safety Code section 1371.38 requires the Department to clearly define the term "complete and accurate claim, including attachments and supplemental information or documentation."

The adoption of section 1300.71 is necessary to clearly define terms relating to claim settlement and reimbursement, and provide procedures for plans and providers to prevent unreasonable delays in settlement of provider claims. Additionally, this section clarifies the meaning of unfair payment practices and the term "complete and accurate claim." Furthermore, this section requires that no plan contract shall require or allow any provider to waive any right conferred by the Act or this section.

Pursuant to Health and Safety Code section 1371.38, the adoption of section 1300.71.38 provides for a fair, fast and cost-effective provider dispute resolution mechanism for resolving billing, claim and other contract disputes. This process provides a mechanism for resolving billing and claims disputes directly or indirectly involving the plan or its enrollees that are voluntarily submitted by providers in a timely manner.

The Director has determined that adopting sections 1300.71 and 1300.71.38 is necessary to establish clear and more efficient provider claim settlement practices and provider dispute resolution mechanisms. Adoption of these sections will put the providers and plans on notice as to the requirements necessary to ensure timely settlement of provider claims. Furthermore, these changes will enable the Department to ensure that provider claims are settled in a timely manner.

AUTHORITY

California Health & Safety Code sections 1344, 1346 and 1371.38.

REFERENCE

California Health & Safety Code sections 1367, 1370, 1371 and 1371.38.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Department has prepared and has available for public review the following documents:

1. An initial statement of reasons for the new and amended regulations;
2. Text of the legally effective regulations; and,
3. All information upon which this proposal is based (rulemaking file).

A copy of any or all of these items is available upon request by writing to the Department of Managed

Health Care, ATTN: Ms. Lyn Amor Macaraeg, 980 9th Street, Suite 500, Sacramento, California 95814, which address will also be the location of public records, including reports, documentation, and other material related to this notice of proposed action. Additionally, a copy of the final statement of reasons (when prepared) will be available upon request by writing to the same address.

INTERNET AVAILABILITY

Materials regarding this notice of proposed action that are available via the Internet may be accessed at the following website:

<http://www.dmhc.ca.gov/library/regulations/pending>.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The text of any modified regulation, unless the modification is only nonsubstantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulation. The changes will be clearly indicated. A request for a copy of any modified regulation should be addressed to the contact person designated below. The Director will accept written comments on the modified regulation for 15 days after the date on which they are made available. The Director may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth above without further notice.

ALTERNATIVES CONSIDERED

In accordance with Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the comment period.

FISCAL IMPACT

- Cost or savings to any state agency: None.
- Cost to any local agency or school district for which Cal. Gov't Code section 17500–17630 requires reimbursement: None.
- Other non-discretionary cost or savings imposed upon local agencies: None.

- Costs or savings in federal funding to the state: None.
- Effect on housing costs: None.

DETERMINATIONS

The Director has determined that the proposed regulatory action:

- Has an economic impact on small businesses. Approximately 50 contracted claims processors qualify as “small businesses” based on Gov’t Code section 11342.610. Health care service plans are not a small business under Cal. Gov’t Code section 11342.610.
- Does not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to Cal. Gov’t Code section 17500 *et seq.*
- In his *initial* determination and pursuant to Cal. Gov’t Code 11346.5(a)(8), will not have a significant statewide adverse economic impact directly affecting business, including the ability of California to compete with businesses in other states.
- Businesses will incur costs in reasonable compliance with this proposed regulation. Estimated costs will result from (1) the requirement that payment policies be consistent with Medicare, (2) the initial incremental costs for specific standards for dispute resolution mechanism, and (3) reporting requirements mandated by statute.
- Per CA. Gov’t Code section 11346.5(a)(10), does not significantly affect:
 - The creation of jobs in California;
 - The elimination of jobs in California;
 - The creation of new businesses in California;
 - The elimination of existing business in California;
 - The expansion of existing businesses in California.

CONTACT PERSON

Comments or inquiries and substantive questions concerning this proposed regulation may be directed to CURTIS LEAVITT, Assistant Chief Counsel, or to the back up comment person, LYN AMOR MACARAEG, Department of Managed Health Care, Office of Legal Services, 980 Ninth Street, Suite 500, Sacramento, California 95814, (916) 322-6727.

GENERAL PUBLIC INTEREST

AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AN APPLICATION FOR A VARIANCE FROM THE REGULATION FOR REDUCING THE OZONE FORMED FROM AEROSOL COATING PRODUCT EMISSIONS

At the direction of the Executive Officer of the California Air Resources Board, a public hearing will be conducted at the time and place noted below to consider an application for a variance from the Regulation for Reducing the Ozone Formed From Aerosol Coating Product Emissions (the "Aerosol Coating Products Regulation"; title 17, California Code of Regulations, sections 94520-94528).

DATE: July 11, 2002

TIME: 9:30 a.m.

PLACE: CALIFORNIA AIR RESOURCES
BOARD

Coastal Hearing Room, 2nd Floor
1001 I Street
Sacramento, California 95814

Section 94522(a)(3) of the Aerosol Coating Products Regulation specifies a Product-Weighted Maximum Incremental Reactivity (MIR) limit for various aerosol coatings. The limits include a 1.20 grams ozone per gram product limit for Flat Paint Products. In addition, section 94525 of the Aerosol Coating Products Regulation allows any person who cannot comply with the requirements of section 94522, because of extraordinary reasons beyond the person's reasonable control, to apply to the Executive Officer for a variance. The criteria and procedures for granting a variance are specified in section 94525.

The applicant listed below has applied for a variance under section 94525 from the Product-Weighted MIR limit for Flat Paint Products.

Homax Products, Incorporated
840 West Horton Road
Bellingham, Washington 98226

The public hearing to consider the variance application will be conducted in accordance with procedures set forth in section 94525 of the Aerosol Coating Products Regulation. At the hearing, the applicant will be asked to present evidence demonstrating that the criteria for granting a variance have been met. Interested members of the public will be allowed a reasonable opportunity to testify at the hearing. All parties may, but need not, be represented by counsel at the hearing. Subsequent to the hearing,

the Executive Officer shall determine whether, under what conditions, and to what extent a variance is necessary and will be permitted.

This facility is accessible to persons with disabilities. If accommodation is needed, please contact Mr. Jose Saldana at (916) 322-0289. Persons with hearing or speech impairments can contact us by using our Telephone Device for the Deaf (TDD) at (916) 324-9431, or (800) 700-8326 for TDD calls from outside the Sacramento area.

Copies of the Aerosol Coating Products Regulation and variance application may be obtained from the Public Information Office, California Air Resources Board, 1001 I Street, Sacramento, California 95814, (916) 322-2990, at least 30 days prior to the scheduled hearing. Further inquiries regarding this matter should be directed to Ms. Carla Takemoto, Manager, Technical Evaluation Section, Stationary Source Division, California Air Resources Board, P.O. Box 2815, Sacramento, California, 95812, (916) 324-8028.

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

CALIFORNIA REGULATORY REGISTER NOTICE ACTION DESCRIPTION FOR AN EMERGENCY RESPONSE INCIDENT HAZARDOUS WASTE TRANSPORTATION VARIANCE ISSUED BY THE STATEWIDE COMPLIANCE DIVISION, TRANSPORTATION SECTION, FOR THE CITY AND COUNTY OF SAN FRANCISCO

On April 30, 2002, the Department of Toxic Substances Control (DTSC) granted a transportation regulatory exemption variance to the City and County of San Francisco, a registered transporter of hazardous waste, to conduct emergency response incident transporter operations authorized by the California Code of Regulations, title 22, section 66263.43. The variance permits the grantee to transport hazardous wastes generated from emergency incident operations to the grantee's central collection facility or temporary storage facility, using a shipping paper that contains all the information required pursuant to the Code of Federal Regulations, title 49, part 172, subpart C. The wastes must subsequently be transported, using a hazardous waste manifest, to an authorized hazardous waste disposal or recycling facility.

California Environmental Quality Act (CEQA) Exemption. The project qualifies for a CEQA exemption under Public Resources Code Section 21080(b)(1), Ministerial Projects. This variance is issued pursuant to California Code of Regulations, title 22, chapter 13, article 4, section 66263.40 et seq., (Regulatory Exemptions for Certain Transportation Operations), that allows for four specific types of

transportation requirement exemptions. Applicants must meet preset regulatory standards. In applying these standards, DTSC only verifies specific facts regarding eligibility and may not add case-specific conditions.

The grantee has numerous central collection facility or temporary hazardous waste storage facilities. The variance expires on May 31, 2003. For more information please call Maria Salomon of DTSC's Transportation Section at (916) 255-3624.

**CALIFORNIA REGULATORY REGISTER
NOTICE ACTION DESCRIPTION FOR AN
EMERGENCY RESPONSE INCIDENT AND
CONSOLIDATION OPERATIONS
HAZARDOUS WASTE TRANSPORTATION
VARIANCE ISSUED BY THE STATEWIDE
COMPLIANCE DIVISION, TRANSPORTATION
SECTION, TO THE DEPARTMENT OF
TRANSPORTATION CALTRANS**

On May 28, 2002, the Department of Toxic Substances Control (DTSC) granted a transportation regulatory exemption variance to the Department of Transportation Caltrans, a registered transporter of hazardous waste, to conduct emergency response incident transporter operations and consolidation operations authorized by the California Code of Regulations, title 22, sections 66263.43 and 66263.45. The variance permits the grantee to transport hazardous wastes to the grantee's designated central collection facility or temporary storage facility, using a shipping paper that contains all the information required pursuant to the Code of Federal Regulations, title 49, part 172, subpart C. The wastes must subsequently be transported, using a hazardous waste manifest, to an authorized hazardous waste disposal or recycling facility.

California Environmental Quality Act (CEQA)
Exemption. The project qualifies for a CEQA exemption under Public Resources Code Section 21080(b)(1), Ministerial Projects. This variance is issued pursuant to California Code of Regulations, title 22, chapter 13, article 4, section 66263.40 et seq., (Regulatory Exemptions for Certain Transportation Operations), that allows for four specific types of transportation requirement exemptions. Applicants must meet preset regulatory standards. In applying these standards, DTSC only verifies specific facts regarding eligibility and may not add case-specific conditions.

The grantee has numerous central collection or temporary hazardous waste storage facilities. The variance expires on May 31, 2003. For more information please call Maria Salomon of DTSC's Transportation Section at (916) 255-3624.

**CALIFORNIA REGULATORY REGISTER
NOTICE ACTION DESCRIPTION FOR A
SMALL LOAD HAZARDOUS WASTE
TRANSPORTATION VARIANCE ISSUED BY
THE STATEWIDE COMPLIANCE DIVISION,
TRANSPORTATION SECTION,
TO VANMAR PRECIOUS METALS**

On May 28, 2002, the Department of Toxic Substances Control (DTSC) granted a transportation regulatory exemption variance to Vanmar Precious Metals, a registered transporter of hazardous waste, to conduct small load operations authorized by the California Code of Regulations, title 22, section 66263.46. The variance permits the grantee to transport jewelry sweeps and polishings from the point of generation to an authorized hazardous waste disposal or recycling facility, using a shipping paper that contains all the information required pursuant to the Code of Federal Regulations, title 49, part 172, subpart C, and the California Code of Regulations, title 22, section 66263.46(f).

California Environmental Quality Act (CEQA)
Exemption. The project qualifies for a CEQA exemption under Public Resources Code Section 21080(b)(1), Ministerial Projects. This variance is issued pursuant to California Code of Regulations, title 22, chapter 13, article 4, section 66263.40 et seq., (Regulatory Exemptions for Certain Transportation Operations), that allows for four specific types of transportation requirement exemptions. Applicants must meet preset regulatory standards. In applying these standards, DTSC only verifies specific facts regarding eligibility and may not add case-specific conditions.

The variance expires on June 30, 2003. For more information please call Maria Salomon of DTSC's Transportation Section at (916) 255-3624.

**CALIFORNIA REGULATORY REGISTER
NOTICE ACTION DESCRIPTION FOR A
SMALL LOAD HAZARDOUS WASTE
TRANSPORTATION VARIANCE ISSUED BY
THE STATEWIDE COMPLIANCE DIVISION,
TRANSPORTATION SECTION,
FOR VOYAGE TECHNOLOGIES**

On May 1, 2002, the Department of Toxic Substances Control (DTSC) granted a transportation regulatory exemption variance to Voyage Technologies, a registered transporter of hazardous waste, to conduct small load operations authorized by the California Code of Regulations, title 22, section 66263.46. The variance permits the grantee to transport solder dross from the point of generation to an authorized hazardous waste disposal or recycling facility, using a shipping paper that contains all the information required pursuant to the Code of Federal

Regulations, title 49, part 172, subpart C, and the California Code of Regulations, title 22, section 66263.46(f).

California Environmental Quality Act (CEQA) Exemption. The project qualifies for a CEQA exemption under Public Resources Code Section 21080(b)(1), Ministerial Projects. This variance is issued pursuant to California Code of Regulations, title 22, chapter 13, article 4, section 66263.40 et seq., (Regulatory Exemptions for Certain Transportation Operations), that allows for four specific types of transportation requirement exemptions. Applicants must meet preset regulatory standards. In applying these standards, DTSC only verifies specific facts regarding eligibility and may not add case-specific conditions.

The variance expires on May 31, 2003. For more information please call Maria Salomon of DTSC's Transportation Section at (916) 255-3624.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

BOARD OF EQUALIZATION

Homeowner's Property Tax Exemption

This is a nonsubstantive filing per California Code of Regulations, title 1, sec. 100(a)(6) to amend section 135 to conform with the current Rev. & Tax Code sec 465 that was changed by Stats. 1998, Ch. 583 (SB 1103) as well as some minor typo corrections and a punctuation change.

Title 18

California Code of Regulations

AMEND: 135

Filed 06/04/02

Effective 06/04/02

Agency Contact: Diane G. Olson (916) 322-9569

BOARD OF EQUALIZATION

Motor Vehicle & Diesel Fuel Tax

The Board of Equalization is amending the captioned sections providing reference citation changes.

Title 18

California Code of Regulations

AMEND: 1111, 1122, 1137, 1177, 1413, 1470; section 1470 withdrawn from the instant filing.

Filed 06/05/02

Effective 06/05/02

Agency Contact: Diane G. Olson (916) 322-9569

BOARD OF FORESTRY AND FIRE PROTECTION Conversion Exemption Limitations—2002

The regulatory action deals with the conversion exemption for the conversion of timberland to a non-timber use only of less than three acres in one contiguous ownership. The regulatory action becomes effective on July 1, 2002.

Title 14

California Code of Regulations

AMEND: 1104.1

Filed 05/30/02

Effective 07/01/02

Agency Contact: James L. Mote (916) 653-9418

BOARD OF GOVERNORS, CALIFORNIA COMMUNITY COLLEGES Definitions

The Board of Governors, California Community Colleges, has amended the captioned sections, and filed the amendments with the Secretary of State on April 15, 2002, pursuant to the authority in Education Code section 70901.5.

Title 5

California Code of Regulations

AMEND: 59311, 59328, 59342

Filed 06/05/02

Effective 07/05/02

Agency Contact:

Renee Brouillette

(916) 322-4145

BUREAU OF BARBERING AND COSMETOLOGY Cleaning and Disinfecting Whirlpool Footspas

This regulatory action is the Certificate of Compliance filing making permanent the prior emergency adoption of provisions establishing cleaning and disinfecting procedures for whirlpool footspas and administrative fines for initial and repeat violations of the procedures. The prior emergency filings were OAL file numbers 01-0508-06E, 01-0910-01EE, 02-0111-03EE.

Title 16

California Code of Regulations

ADOPT: 980.1 AMEND: 974

Filed 05/29/02

Effective 05/29/02

Agency Contact: Tiffany Wetzel (916) 324-8945

CALIFORNIA ENERGY COMMISSION

Data Collection and Confidentiality

Existing regulations require the submittal of specified data from electricity and natural gas providers and provides for the confidentiality and disclosure of certain types of data. This regulatory action revises various reporting requirements and makes more specific the rules on what data is to be kept confidential and what data may be released.

Title 20

California Code of Regulations

ADOPT: 1342, 1343, 1344 AMEND: 1302, 1303, 1306, 1307, 1308, 1340, 1341, 2503, 2505, 2507
REPEAL: 1342, 1343, 1344, 1349

Filed 06/03/02

Effective 06/03/02

Agency Contact: Andrea Gough (916) 654-4928

DEPARTMENT OF CHILD SUPPORT SERVICES

Monthly Statement of Collections and Distribution and Important Information Sheet (Barnes Notice)

In this emergency regulatory action, the Department of Child Support Services is providing for notices that local child support agencies must send to custodial parties who are recipients of child support services when the local child support agency collects and distributes child support payments relating to the custodial party. The notices include a "monthly statement of collections and distribution" and a "notice of important information".

Title 22, MPP

California Code of Regulations

ADOPT: Title 22 section 119184 REPEAL: MPP section 12-225.3

Filed 05/29/02

Effective 07/01/02

Agency Contact: Lucila Ledesma (916) 464-5087

DEPARTMENT OF FOOD AND AGRICULTURE

Containers for table grapes, nectarines, peaches, plums

This rulemaking adopts new standard container 38M for table grapes, and adopts a new standard container 35 for nectarines, peaches and plums.

Title 3

California Code of Regulations

AMEND: 1380.19, 1436.38, 1446.7, 1454.14, 1462.15

Filed 05/29/02

Effective 05/29/02

Agency Contact:

Heather K. Spencer (916) 654-0919

DEPARTMENT OF FOOD AND AGRICULTURE

Red Imported Fire Ant Eradication Area

This Certificate of Compliance adds the county of Merced to the areas of eradication for red imported fire ants.

Title 3

California Code of Regulations

AMEND: 3591.16(a)

Filed 06/04/02

Effective 06/04/02

Agency Contact:

Barbara J. Hass (916) 654-1017

DEPARTMENT OF INSURANCE

Credit Insurance Agents

This emergency rulemaking establishes the regulatory scheme for licensing and regulating credit insurance agents. (Previous OAL file ## 01-0905-01E and 02-0129-02EE)

Title 10

California Code of Regulations

ADOPT: 2192.1, 2192.2, 2192.3, 2192.4, 2192.5, 2192.6, 2192.7, 2192.8, 2192.9, 2192.10, 2192.11, 2192.12, 2192.13

Filed 06/03/02

Effective 06/03/02

Agency Contact: Alice Gates

DEPARTMENT OF INSURANCE

Personal Line Broker—Agent Prelicensing Education

The proposed regulatory action is the Certificate of Compliance filing making permanent the prior emergency adoption of provisions establishing the prelicensing education curriculum for Personal Lines Broker-Agents. The prior emergency filing was OAL file number 01-0607-03E.

Title 10

California Code of Regulations

ADOPT: 2187.3 AMEND: 2186.1, 2187.1, 2187.2

Filed 06/03/02

Effective 06/03/02

Agency Contact:

Elaine LaFrance (415) 492-3568

DEPARTMENT OF PESTICIDE REGULATION

Conflict of Interest Prohibition

The Department of Pesticide Regulation is amending the captioned sections in order to bring them into compliance with changes made in Stats. 1984, Ch. 717, Stats. 1993, Ch. 620, and numerous editorial corrections.

Title 14

California Code of Regulations

AMEND: 1.1, 6159, 6170, 6170.5, 6171, 6179, 6184, 6185, 6200, 6206, 6222, 6243, 6254, 6255, 6262

Filed 06/05/02

Effective 06/05/02

Agency Contact:

Linda Irokawa-Otani (916) 445-3991

DEPARTMENT OF WATER RESOURCES
Revenue Requirement and Just and Reasonable
Determination

This emergency rulemaking action adopts the procedure for a determination of a revenue requirement and whether the revenue requirement is just and reasonable.

Title 23
California Code of Regulations
ADOPT: 510, 511, 512, 513, 514, 515, 516, 517
Filed 06/04/02
Effective 06/04/02
Agency Contact: Gloria Bell (916) 574-1291

FRANCHISE TAX BOARD
Exclusion of Certain Activities from Taxing
Jurisdiction

The Franchise Tax Board is amending the captioned section making editorial corrections as well as eliminating references to "income year", and replacing it with the term "taxable year" in compliance with those changes made in Stats, 2000. ch. 862. Further, a requirement for "annual confirmations" was added to subsection (g) of the captioned section in order to conform to those changes made by Revenue and Taxation Code section 23101.5(d).

Title 18
California Code of Regulations
AMEND: 23101.5
Filed 05/29/02
Effective 06/28/02
Agency Contact:
Colleen Berwick (916) 845-3306

NEW MOTOR VEHICLE BOARD
Request for Extension of Time

These nonsubstantive amendments clarify and correct grammatical errors in the previous rulemaking, OAL file No. 02-0220-05 S. That file established procedures whereby the Board could consider a request for an extension of time beyond the one year limit by a manufacturer, distributor or branch to own and operate a dealership within the relevant market area of an independent dealer of the same line-make, in preparation for sale to a successor independent franchisee, without the formality of a Board meeting.

Title 13
California Code of Regulations
AMEND: 565
Filed 06/03/02
Effective 06/03/02
Agency Contact:
Robin P. Parker (916) 445-2080

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**
Crane and Derrick Adjustment and Repairs

In this regulatory action, the Occupational Safety and Health Standards Board amends a safety order pertaining to the inspection and maintenance of derricks and cranes. The amendment relates to the requirements for repair welds.

Title 8
California Code of Regulations
AMEND: 5034(f)
Filed 06/03/02
Effective 07/03/02
Agency Contact: Marley Hart (916) 274-5721

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**
Definition of Trolley Suspended Hoists

This action would amend the general safety orders for cranes and hoists adding definitions for monorail crane and track, amending the definition for monorail hoist, and deleting the definition for trolley suspension hoist.

Title 8
California Code of Regulations
AMEND: 4885
Filed 06/03/02
Effective 07/03/02
Agency Contact: Marley Hart (916) 274-5721

VETERINARY MEDICAL BOARD
RVT Off Premises Tasks

This regulatory action amends provisions detailing the functions of a Registered Veterinary Technician.

Title 16
California Code of Regulations
AMEND: 2034, 2036
Filed 06/03/02
Effective 07/03/02
Agency Contact: Deanne Pearce (916) 263-2622

**CCR CHANGES FILED WITH THE
SECRETARY OF STATE
WITHIN JANUARY 30, 2002
TO JUNE 05, 2002**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 1

02/22/02 AMEND: 121, Appendix A

Title 2

05/28/02 ADOPT: 1896.300, 1896.310, 1896.320, 1896.330, 1896.340, 1896.350, 1896.360, 1896.370

05/22/02 AMEND: 571(a)(5)

05/13/02 AMEND: 18428

05/10/02 AMEND: 18351

05/09/02 AMEND: 20202, 20206, 20210, 20224, 20234, 20298, 20350, 20363, 20910
REPEAL: 20106, 20205, 20213

05/02/02 ADOPT: 1859.104.1, 1859.104.2, 1859.104.3 AMEND: 1859.2, 1859.21, 1859.50, 1859.51, 1859.61, 1859.70, 1859.73.1, 1859.73.2, 1859.74.1, 1859.75.1, 1859.76, 1859.78.2, 1859.79.3, 1859.81, 1859.81.1, 1859.82, 1859.91, 1859.95, 1859.100, 1859.101, 1859.102,

05/02/02 AMEND: 2271

04/26/02 ADOPT: 18520 AMEND: 18521, 18523, 18523.1

04/19/02 ADOPT: 18537.1

04/10/02 ADOPT: 1859.74.4 AMEND: 1859.2, 1859.20, 1859.21, 1859.30, 1859.33, 1859.40, 1859.41, 1859.42, 1859.43, 1859.50, 1859.51, 1859.60, 1859.70, 1859.73.1, 1859.73.2, 1859.74.1, 1859.74.4, 1859.75.1, 1859.76, 1859.78.2, 1859.79.3, 1859.81, 1859.81.1, 1859.

04/04/02 ADOPT: 60, 60.1, 60.2, 60.3, 60.4, 60.5, 60.6, 60.7, 60.8, 60.9, 60.10

03/27/02 ADOPT: 59100

03/19/02 ADOPT: 599.930

03/18/02 AMEND: 599.502, 599.508

03/15/02 ADOPT: 1859.200, 1859.201, 1859.202, 1859.203, 1859.204, 1859.205, 1859.206, 1859.207, 1859.208, 1859.209, 1859.210, 1859.211, 1859.212, 1859.213, 1859.214, 1859.215, 1859.216, 1859.217, 1859.218, 1859.219, 1859.220

03/13/02 AMEND: 56800

03/07/02 ADOPT: 2351

02/19/02 ADOPT: 18530.8

02/19/02 ADOPT: 18543 REPEAL: 18543

02/19/02 ADOPT: 18450.11

02/14/02 ADOPT: 18404.1 REPEAL: 18404.2

02/05/02 ADOPT: 433.1 AMEND: 433

01/31/02 ADOPT: 18421.4

01/30/02 AMEND: 55300

Title 3

06/04/02 AMEND: 3591.16(a)

05/29/02 AMEND: 1380.19, 1436.38, 1446.7, 1454.14, 1462.15

05/16/02 AMEND: 1428.12, 1428.16

05/02/02 AMEND: 3700(a), (b), & (c)

04/23/02 AMEND: 3591.12(a)

04/23/02 ADOPT: 899.2 AMEND: 899.1

04/18/02 AMEND: 6510, 6793

04/12/02 AMEND: 3423(b)

04/11/02 ADOPT: 3664, 3665, 3666, 3667, 3668, 3669

04/08/02 AMEND: 6450.2, 6450.3, 6784

04/04/02 AMEND: 3033.2, 3033.3, 3033.4

04/02/02 ADOPT: 480.9 AMEND: 480.7

03/12/02 AMEND: 3423(b)

03/12/02 AMEND: 3423(b)

03/08/02 ADOPT: 306, 6188, 6780 AMEND: 6000

02/22/02 AMEND: Div. 1, Chapter 1.1, Section 2 and Appendix

02/20/02 AMEND: 3591.16(a)

02/07/02 AMEND: 3591.12 (a)

02/04/02 AMEND: 1392.1, 1392.2, 1392.4, 1392.9.1

02/04/02 AMEND: 3591.13 (a)

01/30/02 ADOPT: 2681, 2799 AMEND: 2675, 2676, 2694, 2695, 2697, 2701, 2734, 2773.1, 2773.5, 2774, 2774.5, 2775, 2778, 2782, 2783, 2783.5, 2788, 2789, 2790, 2790.5, 2793, 2794, 2796, 2798, 2801, 2802

Title 4

05/13/02 ADOPT: 8110, 8111, 8112, 8113, 8114, 8115, 8116, 8117, 8118, 8119, 8120, 8121, 8122, 8123, 8124, 8125

05/07/02 ADOPT: 3005, 3006, 3007, 3008, 3009, 3010 AMEND: 1928

04/16/02 AMEND: 1405, 1527

03/21/02 ADOPT: 8090, 8091, 8092, 8093, 8094, 8095, 8096, 8097, 8098, 8099, 8100, 8101

03/19/02 ADOPT: 12100, 12102, 12104, 12106, 12108, 12120, 12130

02/13/02 AMEND: 1691

02/06/02 AMEND: 1858

01/31/02 AMEND: 1467

Title 5

06/05/02 AMEND: 59311, 59328, 59342

05/21/02 AMEND: 80026.4, 80026.6, 80122

05/08/02 ADOPT: 80434 AMEND: 80001

03/25/02 ADOPT: 11980, 11981, 11982, 11983, 11984, 11985, 11986

03/20/02 AMEND: 59300, 59302, 59303, 59304, 59305, 59306, 59310, 59311, 59320, 59322, 59324, 59326, 59327, 59328, 59329, 59330, 59333, 59334, 59336, 59338, 59339, 59340, 59342, 59350, 59351, 59352, 59354, 59358, 59360, 59362

03/20/02 AMEND: 50500

03/15/02 ADOPT: 11963, 11963.1, 11963.2, 11963.3, 11963.4
 03/12/02 ADOPT: 18400, 18405, 18406, 18407, 18408, 18409, 18409.5, 18410, 18411, 18412, 18413, 18414, 18415, 18416, 18417, 18418, 18419, 18420, 18421, 18422, 18423, 18424, 18425, 18426, 18427, 18428, 18429, 18430, 18431, 18432, 18433, AMEND: 18409.5, 18409(e),
 03/01/02 ADOPT: 11967.5, 11967.5.1
 02/20/02 AMEND: 41906.5
 02/19/02 ADOPT: 55753.5, 55753.7 AMEND: 55753
 02/08/02 AMEND: 42350.6
 02/08/02 AMEND: 40407.1
 02/08/02 ADOPT: 43095 REPEAL: 43101

Title 7

04/04/02 ADOPT: 237

Title 8

06/03/02 AMEND: 4885
 06/03/02 AMEND: 5034(f)
 05/28/02 AMEND: 3650, 3664
 05/20/02 AMEND: 32125, 32130, 32140, 32603, 32604, 32720, 32735, 32738, 32739, 32744, 32752, 32763, 32980
 05/07/02 ADOPT: 11080, 11090, 11100, 11110, 11120, 11130, 11150 REPEAL: 11080, 11090, 11100, 11130, 11130, 11150
 05/06/02 AMEND: 3089
 05/02/02 AMEND: 100, 106, 107
 05/01/02 ADOPT: 1716.2 AMEND: 1632, 1635, 1671, 1709, 1710
 05/01/02 ADOPT: 11140 AMEND: 11140
 04/22/02 AMEND: 2320.2 of the Low voltage Electrical safety orders
 04/03/02 AMEND: 1626
 03/28/02 ADOPT: 341.15
 03/05/02 AMEND: 3251
 02/22/02 ADOPT: 11010, 11020, 11030, 11040, 11050, 11060, 11070, 11080 REPEAL: 11010, 11020, 11020, 11040, 11050, 11060, 11070, 11080
 02/14/02 AMEND: 17
 02/08/02 AMEND: 3641, 3648
 01/30/02 ADOPT: New Appendix D AMEND: 450, 453, 471, 475, 477, 494 REPEAL: 486, 487

Title 8, 24

05/08/02 AMEND: 3011(d), 3120.1and 3122.0

Title 10

06/03/02 ADOPT: 2192.1, 2192.2, 2192.3, 2192.4, 2192.5, 2192.6, 2192.7, 2192.8, 2192.9, 2192.10, 2192.11, 2192.12, 2192.13

06/03/02 ADOPT: 2187.3 AMEND: 2186.1, 2187.1, 2187.2
 05/01/02 ADOPT: 2278, 2278.1, 2278.2, 2278.3, 2278.4, 2278.5
 04/29/02 ADOPT: 2699.6606, 2699.6711, 2699.6631, 2699.6631, 2699.6717
 AMEND: 2699.6500, 2699.6600, 2699.6605, 2699.6607, 2699.6611, 2699.6613, 2699.6617, 2699.6623, 2699.6625, 2699.6629, 2699.6700, 2699.6703, 2699.6705, 2699.6709, 2699.6800, 2699.6801, 2699.6809
 04/29/02 ADOPT: 1729, 1741.5, 1950.302 AMEND: 1741.5
 04/16/02 AMEND: 2698.73
 03/27/02 ADOPT: 260.204.9
 03/26/02 AMEND: 250.30
 03/22/02 AMEND: 2698.200, 2698.201, 2698.301, 2698.302
 03/21/02 ADOPT: 2130, 2130.1, 2130.2, 2130.3, 2130.4, 2130.5, 2130.6, 2130.7.8
 03/18/02 ADOPT: 1422 & 1423
 02/27/02 AMEND: 2498.6
 02/26/02 ADOPT: 2581.1, 2581.2, 2581.3, 2581.4
 02/11/02 AMEND: 5002
 02/11/02 AMEND: 10.3154
 02/11/02 AMEND: 4019
 02/07/02 AMEND: 260.102.19, 260.140.41, 260.140.42, 260.140.45, 260.140.46
 01/31/02 ADOPT: 2192.1
 01/31/02 ADOPT: 2130, 2130.1, 2130.2, 2130.3, 2130.4, 2130.5, 2130.6, 2130.7, 2130.8

Title 11

05/24/02 AMEND: 1005
 05/21/02 AMEND: 1005
 05/06/02 ADOPT: 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 48
 04/26/02 AMEND: 1005, 1008
 04/25/02 ADOPT: 1081(a)(32)
 04/23/02 AMEND: 3000. 3001, 3003, 3007, 3008
 04/22/02 AMEND: 900, 901, 902, 903, 904, 905, 906, 907, 908, 911
 04/15/02 ADOPT: 999.10, 999.11, 999.12, 999.13, 999.14 and Appendix A
 03/14/02 ADOPT: 1081(a) [31]
 03/11/02 AMEND: 1005, 1007
 03/07/02 AMEND: 1018
 03/06/02 ADOPT: Article 20, Section 51.19
 02/25/02 ADOPT: 410, 411, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426
 02/19/02 AMEND: 20

Title 13

06/03/02 AMEND: 565
 05/24/02 AMEND: 1900, 1960.1 (k), 1961, 1962 &
 the Incorporated Test Procedure
 04/29/02 AMEND: 350.44
 04/04/02 ADOPT: 565
 03/25/02 AMEND: 345.04, 345.41
 03/20/02 ADOPT: 1235.1, 1235.2, 1235.3, 1235.4,
 1235.5, 1235.6 AMEND: 1200
 03/08/02 ADOPT: 593.3
 02/19/02 ADOPT: 156.00
 02/05/02 AMEND: 160.00, 170.00
 01/30/02 AMEND: 553.70

Title 14

06/05/02 AMEND: 1.1, 6159, 6170, 6170.5, 6171,
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 05/22/02 AMEND: 1037.4, 1092.19
 05/21/02 ADOPT: 17367, 17368, 17369, 17370.1,
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 04/29/02 AMEND: 27.80
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 04/10/02 AMEND: 17943(b)(26)
 04/10/02 AMEND: 27.67
 04/04/02 AMEND: 670.2
 03/26/02 AMEND: 28.59
 03/25/02 AMEND: 2090, 2105, 2420, 2425, 2530,
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 03/14/02 AMEND: 180.3
 03/14/02 AMEND: 150
 03/13/02 ADOPT: 18627
 03/04/02 ADOPT: 17211, 17211.1, 17211.2,
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 03/04/02 AMEND: 2030
 02/28/02 ADOPT: 4971
 02/22/02 AMEND: 2135
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 05/06/02 AMEND: 3104
 04/17/02 AMEND: 3276
 03/20/02 AMEND: 3401.5
 03/11/02 ADOPT: 3501
 03/07/02 AMEND: 3375.2
 02/28/02 AMEND: 2005
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 05/29/02 ADOPT: 980.1 AMEND: 974
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05/24/02 ADOPT: 832.06 AMEND: 832.05
 05/21/02 ADOPT: 2412 AMEND: 2411, 2418
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 02/26/02 AMEND: 3394.4, 3394.6
 02/20/02 AMEND: 1388, 1388.6, 1389, 1392,
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 02/19/02 AMEND: 1387.6, 1387.7, 1387.8
 02/13/02 AMEND: 3361.1
 02/11/02 ADOPT: 2085.4
 02/04/02 AMEND: 1399.157
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